

9-23-2011

State v Moses Clerk's Record v. 1 Dckt. 38871

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LAW CLERK

Vol. 1 of 4

IN THE
SUPREME COURT
OF THE
STATE OF IDAHO

STATE OF IDAHO

Plaintiff / Respondent

vs.

JOSHUA MICHAEL MOSES

Defendant / Appellant

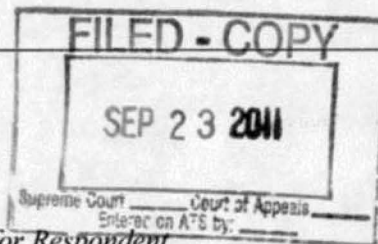
*Appealed from the District Court of the First Judicial District
of the State of Idaho, in and for the County of Kootenai.*

Lawrence G. Wasden
Attorney General
P.O. Box 83720
Boise, ID 83720-0010

Attorney for Respondent

Molly Huskey
State Appellate Public Defender
P.O. Box 83720
Boise, ID 83720-0005

Attorney for Appellant



38871 41275

IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO
Plaintiff/Respondent

vs.

)
)
)
)

SUPREME COURT NUMBER

38871

CLERK'S RECORD

APPEAL FROM THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI
THE HONORABLE JOHN T. MITCHELL, PRESIDING JUDGE
FIRST JUDICIAL DISTRICT, PRESIDING

MS. MOLLY HUSKEY
STATE APPELLATE
PUBLIC DEFENDER
3647 LAKE HARBOR LN
BOISE ID 83706

MR. LAWRENCE WASDEN
ATTORNEY GENERAL
STATE OF IDAHO
700 W JEFFERSON, STE 210
BOISE ID 83720

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State of Idaho vs. Joshua Michael Moses

Date	Code	User	Judge
7/29/2010	NCRF	OREILLY	New Case Filed - Felony To Be Assigned
	CRCO	OREILLY	Criminal Complaint Scott Wayman
	WARI	OREILLY	Warrant Issued - Arrest Bond amount: 100000.00 Defendant: Moses, Joshua Michael Issued 7/29/10 Scott Wayman
			Moses, Joshua Michael To Be Assigned
	CSOR	LSMITH	Case Status Order ****OPEN**** To Be Assigned
	XUNS	LSMITH	Case Unsealed To Be Assigned
	STAT	LSMITH	Case status changed: Pending To Be Assigned
7/31/2010	ORPD	BUTLER	Defendant: Moses, Joshua Michael Order Appointing Public Defender Public defender Public Defender Eugene A. Marano
8/2/2010	ARRN	LSMITH	Hearing result for Arraignment/First Appearance held on 07/30/2010 02:00 PM: Arraignment / First Appearance Eugene A. Marano
8/3/2010	HRSC	HOFFMAN	Hearing Scheduled (Preliminary Hearing Status Conference 08/10/2010 08:30 AM) Penny E. Friedlander
	HRSC	HOFFMAN	Hearing Scheduled (Preliminary Hearing 08/12/2010 01:30 PM) Penny E. Friedlander
		HOFFMAN	Notice of Preliminary Hearing Status Conference and Preliminary Hearing To Be Assigned
	NAPH	BROWN	Notice of Appearance, Request for Timely Preliminary Hearing, Motion for Bond Reduction and Notice of Hearing To Be Assigned
	DRQD	BROWN	Defendant's Request For Discovery To Be Assigned
8/6/2010	PRQD	BROWN	Plaintiff's Request For Discovery To Be Assigned
	PRSD	BROWN	Plaintiff's Response To Discovery To Be Assigned
	DSRQ	BROWN	Defendant's Supplemental Req. For Discovery To Be Assigned
	DRSD	BROWN	Defendant's Response To Discovery To Be Assigned
8/10/2010	HRHD	STONE	Hearing result for Preliminary Hearing Status Conference held on 08/10/2010 08:30 AM: Hearing Held Penny E. Friedlander
8/11/2010	CRCO	STONE	Amended Criminal Complaint Penny E. Friedlander
	SUBF	CRUMPACKER	Subpoena Return/found 8/9/10 Joshua Branam To Be Assigned
8/12/2010	INHD	ROHRBACH	Hearing result for Preliminary Hearing held on 08/12/2010 01:30 PM: Interim Hearing Held - to be reset Quentin F. Harden

001

State of Idaho vs. Joshua Michael Moses

Date	Code	User	Judge
8/12/2010	MISC	ROHRBACH	Grant of Immunity
	SUBF	BAXLEY	Subpoena Return/found on 08/10/10 served Tina Hart
	SUBF	BAXLEY	Subpoena Return/found on 08/10/10 served Peter Anthony Hoopii Jr
		MITCHELL	Notice of Preliminary Hearing
3/16/2010	MNPH	BROWN	Motion For Preparation Of Preliminary Hearing Transcript
3/18/2010	ORDR	ALBERS	Order for Preparatio of preliminary hearing Transcript (8/12/10)
3/19/2010	MOTN	ALBERS	Motion to Quash Subpoena
	SUBF	ROSENBUSCH	Subpoena Return/found/Walter Ward/08-17-10
	SUBF	ROSENBUSCH	Subpoena Return/found/Joshua Branam/08-16-10
	SUBF	ROSENBUSCH	Subpoena Return/found/Robert Perry/08-16-10
	SUBF	ROSENBUSCH	Subpoena Return/found/Christian Beech/08-16-10
	MOTN	JOKELA	Motion to Quash Subpoena
3/20/2010	PHHD	ALBERS	Hearing result for Preliminary Hearing held on 08/20/2010 09:00 AM: Preliminary Hearing Held NO STATUS CALL. WITNESSES MUST BE PRESENT. 3 hrs.
	ORDR	ALBERS	Order to Quash Subpoena - Joshua Branam
	HRSC	ALBERS	Hearing Scheduled (Preliminary Hearing 08/24/2010 10:45 AM) Continued from 8/20/10
	DSBC	ALBERS	Dismissed by Court (118-6501 Robbery)- State unable to Proceed
	DSBC	ALBERS	Dismissed by Court (118-4501-I Kidnapping-First Degree)- state unable to proceed
8/23/2010	AMCO	ALBERS	Second Amended Complaint Filed
	PHHD	ALBERS	Hearing result for Preliminary Hearing held on 08/23/2010 08:30 AM: Preliminary Hearing Held Continued from 8/20/10
	ORBC	ALBERS	Order Setting Bond and Conditions of Release (Bond set \$75,000)
	NCOR	ALBERS	*****NO CONTACT ORDER*****
	ORHD	ALBERS	Order Holding Defendant

002

State of Idaho vs. Joshua Michael Moses

Date	Code	User	Judge
8/23/2010	BOUN	ALBERS	Bound Over (after Prelem)
	CVNC	ALBERS	No Contact Order: Civil No Contact Order Filed Comment: Stay 300' away from Walter Ward & Joshua M Branam Expiration Days: 365 Expiration Date: 8/23/2011
9/15/2010	MATT	CAMPBELL	Motion & Affidavit for Extension of Time on Transcript
	MNDS	BROWN	Motion To Dismiss
9/16/2010	ORDR	BOOTH	Order Extending Time for Transcript Preparation (10/4/10)
	HRSC	BOOTH	Hearing Scheduled (Arraignment in District Court 10/18/2010 03:00 PM)
		BOOTH	Notice of Hearing
	NOPH	CAMPBELL	Notice Of Lodging Of Preliminary Hearing Transcript - (August 12, 2010)
	LODG	CAMPBELL	Lodged - Transcript Preliminary Hearing (August 12, 2010)
	RCPH	BROWN	Receipt Of Preliminary Hearing Transcript - PD
	RCPH	BROWN	Receipt Of Preliminary Hearing Transcript -KCPA
	HRSC	BOOTH	Hearing Scheduled (Motion to Dismiss 11/22/2010 03:00 PM)
10/20/2010	SRSD	BROWN	First Supplemental Response To Discovery
10/21/2010	INFO	BROWN	Information
10/30/2010	NOPH	CAMPBELL	Notice Of Lodging Of Preliminary Hearing Transcript
	LODG	CAMPBELL	Lodged - Transcript Preliminary Hearing (August 20 and 23, 2010)
10/1/2010	RCPH	BROWN	Receipt Of Preliminary Hearing Transcript - PD
	RCPH	BROWN	Receipt Of Preliminary Hearing Transcript - KCPA
10/12/2010	HRSC	BOOTH	Hearing Scheduled (Motion to Dismiss 11/02/2010 03:00 PM)
10/13/2010	NOHG	MCCANDLESS	Notice Of Hearing
10/18/2010	INHD	BOOTH	Hearing result for Arraignment in District Court held on 10/18/2010 03:00 PM: Interim Hearing Held

State of Idaho vs. Joshua Michael Moses

Date	Code	User	Judge
12/1/2010	HRVC	BOOTH	Hearing result for Pre-Trial Conference held on 01/14/2011 09:30 AM: Hearing Vacated
	HRSC	HOFFMAN	Hearing Scheduled (Preliminary Hearing Status Conference 12/09/2010 08:30 AM)
	HRSC	HOFFMAN	Hearing Scheduled (Preliminary Hearing 12/10/2010 01:30 PM)
	AAPI	REYNOLDS	Acceptance Of Appointment
	SUBF	CRUMPACKER	Subpoena Return/found 12/3/10 Walter B Ward
	NOHG	LSMITH	Notice Of Hearing
	MOTN	LSMITH	Motion to Quash Subpoena
12/9/2010	HRHD	STOKES	Hearing result for Preliminary Hearing Status Conference held on 12/09/2010 08:30 AM: Hearing Held
	MEMO	STOKES	Memorandum in Support of Notice of Intent to Introduce Former Testimony
	NOTC	STOKES	Notice of Intent to Introduce Former Testimony
12/10/2010	PHHD	REYNOLDS	Hearing result for Preliminary Hearing held on 12/10/2010 01:30 PM: Preliminary Hearing Held 6 Witnesses
	BOUN	REYNOLDS	Bound Over (after Prelim)
	ORHD	REYNOLDS	Order Holding Defendant
2/13/2010	SUBF	ROSEBUSCH	Subpoena Return/found/Mark Goodwin/12-09-10
2/14/2010	INFO	BROWN	Information
	STAT	BROWN	Case status changed: closed pending clerk action
2/28/2010	MOTN	CARROLL	Motion for Reduction of Bond
	MOTN	CARROLL	Motion for Preparation of Preliminary Hearing Transcript
2/29/2010	HRSC	CLAUSEN	Hearing Scheduled (Bond Hearing 01/06/2011 01:30 PM) Taylor
	HRSC	CLAUSEN	Hearing Scheduled (Arraignment in District Court 01/06/2011 01:30 PM)
		CLAUSEN	Notice of Hearing
	NOHG	CARROLL	Notice Of Hearing
2/30/2010	ORDR	CLAUSEN	Order for Preparation of Preliminary Hearing Transcript
4/2011	MNDS	BROWN	Motion To Dismiss

State of Idaho vs. Joshua Michael Moses

Date	Code	User	Judge
1/6/2011	DCHH	CLAUSEN	Hearing result for Bond Hearing held on 01/06/2011 01:30 PM: District Court Hearing Hel Court Reporter: JULIE FOLAND MOTION DENIED
	DCHH	CLAUSEN	Hearing result for Arraignment in District Court held on 01/06/2011 01:30 PM: District Court
			03/09/2011 09:00 AM) 4 DAYS
		CLAUSEN	Notice of Hearing
1/11/2011	WITP	BROWN	Witness List - Plaintiff's
1/12/2011	FILE	BROWN	New File Created #2
1/14/2011	SUBF	BAXLEY	Subpoena Return/found on 12/13/10 served Scott W Harmon
	SUBF	BAXLEY	Subpoena Return/found on 01/13/11 served Mark M Goodwin
1/18/2011	SUBF	CRUMPACKER	Subpoena Return/found 1/14/11 Robert McDonald
1/24/2011	NOTH	VIGIL	Notice Of Hearing
1/25/2011	NOPH	CAMPBELL	Notice Of Lodging Of Preliminary Hearing Transcript
	LODG	CAMPBELL	Lodged - Transcript Preliminary Hearing (December 10, 2010)
	HRSC	CLAUSEN	Hearing Scheduled (Motion to Dismiss 02/10/2011 03:30 PM) Taylor
	RCPH	BROWN	Receipt Of Preliminary Hearing Transcript - KCPA
	RCPH	BROWN	Receipt Of Preliminary Hearing Transcript - PD
1/4/2011	NOHG	BROWN	Notice Of Hearing
1/10/2011	DCHH	CLAUSEN	Hearing result for Motion to Dismiss held on 02/10/2011 03:30 PM: District Court Hearing Hel Court Reporter: JULIE FOLAND MOTION CONTINUED
	HRSC	CLAUSEN	Hearing Scheduled (Motion to Dismiss 02/24/2011 04:00 PM) Taylor
		CLAUSEN	Notice of Hearing
1/16/2011	MEMO	CLAUSEN	Memorandum in Support of Motion to Dismiss
1/17/2011	NOHG	MCCANDLESS	Notice Of Hearing
1/22/2011	HRVC	CLAUSEN	Hearing result for Motion to Dismiss held on 02/24/2011 04:00 PM: Hearing Vacated Taylor

State of Idaho vs. Joshua Michael Moses

Date	Code	User	Judge
2/22/2011	HRSC	CLAUSEN	Hearing Scheduled (Motion to Dismiss 02/24/2011 02:00 PM) Taylor
		CLAUSEN	Amended Notice of Hearing
2/23/2011	MEMO	CLAUSEN	Memorandum in Opposition to Defendant's Motion to Dismiss
			Defendant's Motion to Dismiss
3/1/2011	DCHH	CLAUSEN	Hearing result for Pre-Trial Conference held on 03/01/2011 01:30 PM: District Court Hearing Hel Court Reporter: JULIE FOLAND
	HRSC	CLAUSEN	Hearing Scheduled (Motion 03/17/2011 11:00 AM) Pretrial Motions
	CONT	CLAUSEN	Hearing result for Jury Trial Scheduled held on 03/09/2011 09:00 AM: Continued 4 DAYS
	HRSC	CLAUSEN	Hearing Scheduled (Jury Trial Scheduled 03/22/2011 09:00 AM) 3 DAYS
3/2/2011		CLAUSEN	Notice of Hearing
3/3/2011	MNTP	BROWN	Motion To Transport
	MOTN	BROWN	Motion For Order To House Defendant In Kootenai County
	MOTN	BROWN	Motion Requiring Kootenai County Sheriff's Office to Accept Clothing For Witness To Wear During Jury Trial
	MOTN	BROWN	Motion Requiring Kootenai County Sheriff's Office To Accept Clothing For Defendant To Wear During Jury Trial
	MOTN	BROWN	Motion For An Order Directing the Sheriff To Provide A Haircut For Defendant
4/4/2011	WITD	BROWN	Witness List - Defendant's
	PRJI	BROWN	Plaintiff's Requested Jury Instructions
7/7/2011	SUBF	BAXLEY	Subpoena Return/found on 03/04/11 served Robert F McDonald
8/8/2011	ORDR	CLAUSEN	Order to Transport
	ORDR	CLAUSEN	Order Requiring Kootenai County Sheriff's Office to Accept Clothing for Witness to Wear During Jury Trial
	ORDR	CLAUSEN	Order Requiring Kootenai County Sheriff's Office to Accept Clothing for Defendant to Wear During Jury Trial

State of Idaho vs. Joshua Michael Moses

Date	Code	User		Judge
3/8/2011	ORDR	CLAUSEN	Order Directing the Sheriff to Provide a Haircut for Defendant	John T. Mitchell
	ORDR	CLAUSEN	Order to House Defendant in Kootenai County	John T. Mitchell
	SUBF	BAXLEY	Subpoena Return/found on 03/04/11 served Scott W Harmon	John T. Mitchell
			Joshua Branam	
3/15/2011	PSRS	BROWN	Plaintiff's Supplemental Response To Discovery	John T. Mitchell
	SUBF	BAXLEY	Subpoena Return/found on 03/07/11 served Joshua branam	John T. Mitchell
3/16/2011	SUBF	BAXLEY	Subpoena Return/found on 03/10/11 served Officer Alan Speer	John T. Mitchell
3/17/2011	MNLI	BROWN	Motion In Limine	John T. Mitchell
	PSRS	BROWN	Plaintiff's Supplemental Response To Discovery	John T. Mitchell
	DCHH	CLAUSEN	Hearing result for Motion held on 03/17/2011 11:00 AM: District Court Hearing Held Court Reporter: JULIE FOLAND	John T. Mitchell
3/18/2011	HRSC	CLAUSEN	Hearing Scheduled (Motion 03/21/2011 10:30 AM) Pretrial - Verharen	John T. Mitchell
	MOTN	CLAUSEN	Motion in Limine RE: IRE 801(d)(2)	John T. Mitchell
	NOTH	CLAUSEN	Notice Of Hearing	John T. Mitchell
	MOTN	CLAUSEN	Amended Motion in Limine	John T. Mitchell
	MEMO	CLAUSEN	Memorandum in Support Amended Motion in Limine	John T. Mitchell
3/21/2011	DCHH	CLAUSEN	Hearing result for Motion held on 03/21/2011 10:30 AM: District Court Hearing Held Court Reporter: JULIE FOLAND	John T. Mitchell
	HRSC	CLAUSEN	Hearing Scheduled (Motion to Quash 03/22/2011 08:30 AM) Subpoena - Schwartz	John T. Mitchell
	MOTN	BROWN	Motion To Quash Subpoena	John T. Mitchell
	SUBF	CRUMPACKER	Subpoena Return/found 3/18/11 Phillip Connell	John T. Mitchell
	DRJI	BROWN	Defendant's Requested Jury Instructions	John T. Mitchell
	MEMO	BROWN	Memorandum In Support Of Motion Seeking Admission Of Prior Sworn Testimony	John T. Mitchell
	MOTN	BROWN	Motion Seeking Admission Of Prior Sworn Testimony	John T. Mitchell
	NOHG	MCCANDLESS	Notice Of Hearing	John T. Mitchell

State of Idaho vs. Joshua Michael Moses

Date	Code	User		Judge
3/22/2011	DCHH	CLAUSEN	Hearing result for Motion to Quash held on 03/22/2011 08:30 AM: District Court Hearing Held Court Reporter: JULIE FOLAND	John T. Mitchell
	AINF	CLAUSEN	Amended Information	John T. Mitchell
	PSRS	MCCANDLESS	Plaintiff's Supplemental Response To Discovery	John T. Mitchell
5/24/2011	CFJI	CLAUSEN	Court's Final Jury Instructions	John T. Mitchell
	VERD	CLAUSEN	Verdict	John T. Mitchell
	VERD	CLAUSEN	Verdict Part II	John T. Mitchell
	PSSA1	CLAUSEN	Order for Presentence Investigation Report and Substance Abuse Assessment and Sentencing Date	John T. Mitchell
	FOGT	CLAUSEN	Found Guilty After Trial	John T. Mitchell
	FOGT	CLAUSEN	Found Guilty After Trial - Part II	John T. Mitchell
5/28/2011	FILE	BROWN	New File Created #3 EXPANDO - Contains Transcripts	John T. Mitchell
5/29/2011	HRSC	CLAUSEN	Hearing Scheduled (Sentencing 05/25/2011 03:00 PM)	John T. Mitchell
5/4/2011	MEMO	CLAUSEN	Memorandum in Support of Motion Seeking Admission of Prior Sworn Testimony	John T. Mitchell
	FILE	BROWN	New File Created #5	John T. Mitchell
5/18/2011	PSIR	BROWN	Presentence Investigation Report Document sealed	John T. Mitchell
	FILE	BROWN	New File Created #4 PSI	John T. Mitchell
5/25/2011	DCHH	CLAUSEN	Hearing result for Sentencing held on 05/25/2011 03:00 PM: District Court Hearing Held Court Reporter: JULIE FOLAND	John T. Mitchell
	ORDR	CLAUSEN	Order Transmitting PSI	John T. Mitchell
	SNPF	ROHRBACH	Sentenced To Pay Fine (I18-2403(2)(E) {F} Theft by Extortion)	John T. Mitchell
	SNIC	ROHRBACH	Sentenced To Incarceration (I18-2403(2)(E) {F} Theft by Extortion) Confinement terms: Penitentiary determinate: 10 years. Penitentiary indeterminate: 20 years.	John T. Mitchell
	STAT	ROHRBACH	Case status changed: closed pending clerk action	John T. Mitchell
	RJTC	ROHRBACH	Therapeutic Community (TC Rider)	John T. Mitchell
	EXSP	ROHRBACH	Execution Of Judgment Suspended - (365 Days)	John T. Mitchell

State of Idaho vs. Joshua Michael Moses

Date	Code	User		Judge
6/3/2011	APSC	BROWN	Appealed To The Supreme Court	John T. Mitchell
	MNPD	BROWN	Motion For Appointment Of State Appellate Public Defender In Direct Appeal; Retaining Trial Counsel For Residual Purposes	John T. Mitchell
6/7/2011	ORDR	CLAUSEN	Order for Appointment of State Appellate Public Defender In Direct Appeal; Retaining Trial	John T. Mitchell
7/29/2011	HRSC	CLAUSEN	Hearing Scheduled (Jurisdictional Review 04/04/2012 03:30 PM)	John T. Mitchell
		CLAUSEN	Jurisdictional Review Hearing Notice and Notice for Transport	John T. Mitchell

BARRY McHUGH
Prosecuting Attorney
501 Government Way/Box 9000
Coeur d'Alene, ID 83816-9000
Telephone: (208) 446-1800

STATE OF IDAHO
COUNTY OF KOOTENAI } SS
FILED:

2010 JUL 29 PM 2: 32

CLERK DISTRICT COURT
Cindy O. Beilly
DEPUTY

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI

vs.

JOSHUA M. MOSES
DOB: 05/20/82
SSN: 536-90-3280

Defendant.

CRIMINAL COMPLAINT

AGENCY CASE #10PF13743

S. H. SCOTT HARLAN

appeared personally before me, and being first duly sworn on oath, complains that the above named defendant did commit the crime(s) of COUNT I, GRAND THEFT BY EXTORTION, a Felony, Idaho Code §18-2403(2)(e), 18-2407(1)(a) and COUNT II, KIDNAPPING IN THE FIRST DEGREE, a Felony, Idaho Code Section 18-4501, committed as follows:

COUNT I

That the Defendant, JOSHUA M. MOSES, on or about the 24th day of July, 2010, in the County of Kootenai, State of Idaho, did compel and induce Walter Ward to deliver \$2500.00 to himself by means of instilling in Joshua M. Braham a fear that if the property was not so delivered,

COMPLAINT - CRIMINAL: Page 1

011

the defendant and/or Holly Brown would cause physical injury to some person in the future, to-wit:
Joshua M. Braham and/or his family members.

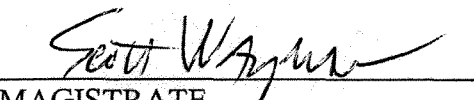
COUNT II

That the Defendant, JOSHUA M. MOSES, on or about the 24th day of July, 2010, in the
County of Kootenai, State of Idaho, did willfully seize and/or confine Joshua M. Braham with the
intent to cause him to be kept/detained against his will for the purpose of obtaining money, all of

DATED this 29 day of JULY, 2010.


COMPLAINANT

SUBSCRIBED AND SWORN to before me this 29 day of July, 2010.


MAGISTRATE

Court Minutes:

Session: MARANO073010I
Session Date: 07/30/2010
Judge: Marano, Eugene
Reporter:

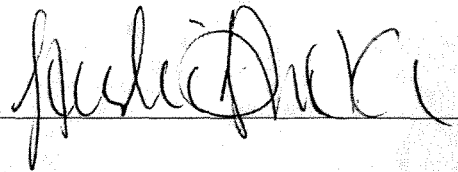
Division: MAG
Session Time: 12:58

Courtroom: Courtroom5

Clerk(s): Smith, Leslie

Prob. Officer(s):

Court interpreter(s):

A handwritten signature in black ink, appearing to read "Leslie Smith", is written over a horizontal line.

Case ID: 0015

Case number: CR2010-15159
Plaintiff:
Plaintiff Attorney:
Defendant: MOSES, JOSHUA
Pers. Attorney:
Co-Defendant(s):
State Attorney: Samuels, Leon
Public Defender:

07/30/2010

13:57:54

Recording Started:

13:57:54

Case called

13:58:07

Judge: Marano, Eugene
FIRST APPEARANCE/ARRAIGNMENT-IN CUSTODY

13:58:09 BOND SURRENDERED IN 10-7069 AND WILL REF TO
ASSIGNED JUDGE
13:58:46 10-15159
13:58:58 REV ALLEGATIONS
13:59:55 **Defendant: MOSES, JOSHUA**
UNDERSTAND CHARGES
14:00:01 **Judge: Marano, Eugene**
ALLEGED THAT YOU INJURED VICTIM; AND DON'T NEED
A RESPONSE
14:00:24 PENALTIES
14:00:54 HAS THE STATE DISC THE DEATH PENALTY:

14:01:35 **Defendant: MOSES, JOSHUA**
I WOULD LIKE PD
14:01:39 **Judge: Marano, Eugene**
PD APPTD AND ADVISE MR ADAMS THIS IS POSSIBLE
DEATH PENALTY CASE AND WILL BE
14:01:55 BROUGHT BACK TOMORROW FOR THE AMT OF BOND; WILL
NOT GO ANY FURHTER BECAUSE
14:02:08 YOU HAVE NO COUNSEL
14:02:21 IF THE STATE SEEKS
14:02:53 MONDAY YOU WILL BE SEEN AND NO BOND AT THIS TIME
14:03:13 **Stop recording**

FIRST JUDICIAL DISTRICT COURT, STATE OF IDAHO
CLERK OF THE DISTRICT COURT
324 W. GARDEN AVENUE
COEUR D'ALENE, IDAHO 83816-9000

FILED 7/31/10 AT 3:00 P.M.
STATE OF IDAHO, COUNTY OF KOOTENAI SS
CLERK OF THE DISTRICT COURT

BY Wanda Butler DEPUTY

STATE OF IDAHO)
Plaintiff,)

vs.)

Joshua Michael Moses)
1228 E Princeton)

Citation No:)

The Court being fully advised as to the application of Joshua Michael Moses, and it appearing to be a proper case,
NOW, THEREFORE, IT IS ORDERED that Attorney

Kootenai County Public Defender
P.O. Box 9000/ 400 Northwest Blvd.
Coeur d'Alene, ID 83814
(208) 446-1700

Public Defender for the County of Kootenai, State of Idaho, a duly licensed attorney in the State of Idaho, is hereby appointed to represent said Defendant, in all proceedings in the above entitled case.

The Defendant is further advised that he/she may be required to reimburse the Court for all or part of the cost of court appointed counsel.

Date: 7/30/10

Eugene A. Marano
Judge

In Custody Bond \$ _____

Copies to: Public Defender Fax: 4461701 #807

Prosecutor Fax: (208) 446-1833 #808

Wanda Butler 8/2/10
Deputy Clerk Date

Court Minutes:

Session: STOW0802101
Session Date: 08/02/2010
Judge: Stow, James D.
Reporter:

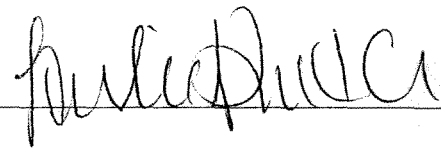
Division: MAG
Session Time: 11:20

Courtroom: Courtroom5

Clerk(s): Smith, Leslie

Prob. Officer(s):

Court interpreter(s):

A handwritten signature in black ink, appearing to read "Leslie Smith", is written over a horizontal line.

Case ID: 0014

Case number: CR2010-15159
Plaintiff:
Plaintiff Attorney:
Defendant: MOSES, JOSHUA
Pers. Attorney:
Co-Defendant(s):
State Attorney: Samuels, Leon
Public Defender:

08/02/2010

13:31:01

Recording Started:

13:31:01

Case called

13:31:22

Defendant: MOSES, JOSHUA
UNDERSTOOD RIGHTS

13:31:31 **Judge: Stow, James D.**
REV HEARING FROM FRIDAY 7/30

13:31:42 I DON'T SEE THAT THERE IS A PD

13:31:53 **State Attorney: Samuels, Leon**
IT WAS MY UNDERSTANDING THAT WE WOULD NOT
CONTINUE WITH THE DEATH PENALTY

13:32:22 **Judge: Stow, James D.**

13:32:30 **State Attorney: Samuels, Leon**
IT WOULD BE MY UNDERSTANDING THAT IT WAS WHY IT
WAS CONTINUED TO TODAY

13:33:58 **Stop recording**

Court Minutes:

Session: FRIEDLAN081010J
Session Date: 08/10/2010
Judge: Friedlander, Penny
Reporter:

Division: Div1
Session Time: 08:13

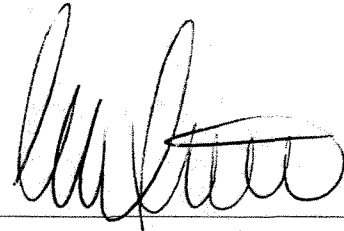
Courtroom: local

Clerk(s): Stone, Emma

Neils, Martin
Schwartz, Christopher
Taylor, Anne
Walsh, Sean
Whittaker, Jed

Prob. Officer(s):

Court interpreter(s):

A handwritten signature in black ink, appearing to be 'Emma Stone', written over a horizontal line.

Case ID: 0013

Case number: CR2010-15159

Plaintiff:

Plaintiff Attorney:

Defendant: MOSES, JOSHUA

Pers. Attorney:

Co-Defendant(s):

State Attorney: Verharen, Art

Public Defender: Taylor, Anne

Previous audio and annotations can be found in case: 0012

08/10/2010

09:23:51

Case recalled

09:23:51

Recording Started:

09:24:12

Public Defender: Taylor, Anne
3-7 WITNESSES

09:24:16

State Attorney: Verharen, Art
AMENDED COMPLAINT

09:24:19

Public Defender: Taylor, Anne
I HAVE THAT

Court Minutes:

Session: FRIEDLAN081010J
Session Date: 08/10/2010
Judge: Friedlander, Penny
Reporter:

Division: Div1
Session Time: 08:13

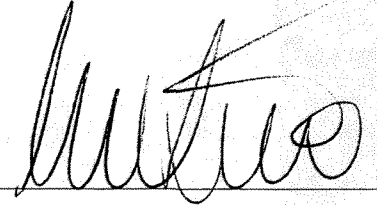
Courtroom: local

Clerk(s): Stone, Emma

Chapman, Eric
Neils, Martin
Schwartz, Christopher
Taylor, Anne
Walsh, Sean
Whittaker, Jed

Prob. Officer(s):

Court interpreter(s):



Case ID: 0012

Case number: CR2010-15159

Plaintiff:

Plaintiff Attorney:

Defendant: MOSES, JOSHUA

Pers. Attorney:

Co-Defendant(s):

State Attorney: Verharen, Art

Public Defender: Taylor, Anne

Additional audio and annotations can be found in case: 0013.

08/10/2010

09:22:49

Case called

09:22:49

Recording Started:

09:22:53

Add Ins: HEARING, PRELIMINARY

09:22:54

**Defendant: MOSES, JOSHUA
IN CUSTODY**

09:22:59

Public Defender: Taylor, Anne

2 WITNESSES

09:23:51

Stop recording

BARRY McHUGH
Prosecuting Attorney
501 Government Way/Box 9000
Coeur d'Alene, ID 83816-9000
Telephone: (208) 446-1800
Facsimile: (208) 446-1833

STATE OF IDAHO } SS
COUNTY OF KOOTENAI }
FILED: 8/10/10
AT 9:22 O'CLOCK AM
CLERK, DISTRICT COURT
DEPUTY

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO IN AND FOR THE COUNTY OF KOOTENAI

JOSHUA MICHAEL MOSES,
DOB: 05-20-1982
SSN: 536-90-3280

Defendant.

COMPLAINT

Agency Report 10PF13743

COMES NOW, ART VERHAREN, Deputy Prosecuting Attorney, and hereby amends the Complaint as follows, that the above-named Defendant did commit the crimes of **COUNT I, ROBBERY**, a felony, I.C. §§18-6501, 18-6502, **COUNT II, GRAND THEFT BY EXTORTION**, a felony, I.C. §§18-2403(2)(e), 18-2407(1)(a), and **COUNT III, KIDNAPPING IN THE FIRST DEGREE**, a felony, I.C. §18-4501, committed as follows:

COUNT I

That the Defendant, **JOSHUA MICHAEL MOSES**, on or about the 24th day of July, 2010, in the County of Kootenai, State of Idaho, intentionally and by means of force or fear, did take from the possession or from the immediate presence of Joshua Branam certain property, to-wit: cash, the property of Joshua Branam, which was accomplished against the will of said person by beating him, and

*8-29-10
DISMISS
NO
PROT*

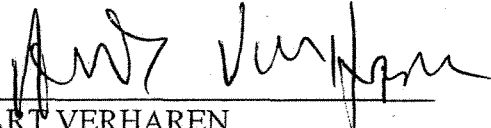
COUNT II

That the Defendant, **JOSHUA MICHAEL MOSES**, on or about the 24th day of July, 2010, in the County of Kootenai, State of Idaho, did compel and induce Walter Ward to deliver \$2,500.00 to himself by means of instilling in Joshua M. Branam a fear that if the property was not so delivered, the Defendant and/or Holly Brown would cause physical injury to some person in the future to wit: Joshua M. Branam and/or his family members and

in the County of Kootenai, State of Idaho, did compel and induce Walter Ward to deliver \$2,500.00 to himself by means of instilling in Joshua M. Branam a fear that if the property was not so delivered, the Defendant and/or Holly Brown would cause physical injury to some person in the future to wit: Joshua M. Branam and/or his family members and the intent to cause him to be kept/detained against his will for the purpose of obtaining money, all of which is contrary to the form, force, and effect of the statute in such case made and provided and against the peace and dignity of the People of the State of Idaho. Said Complainant therefore prays for proceedings according to law.

DISM.
w/o
PREJ.

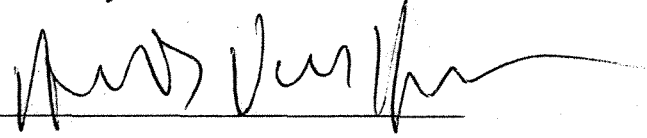
DATED this 9 day of August, 2010.


ART VERHAREN
Deputy Prosecuting Attorney

CERTIFICATE OF MAILING

I hereby certify that on the 9 day of August, 2010, a true and correct copy of the foregoing was mailed, faxed, and/or hand-delivered by interoffice mail to:

PD
HAND-DELIVERED



Court Minutes:

Session: HARDEN081210P
Session Date: 08/12/2010
Judge: Harden, Quentin
Reporter:

Division: MAG
Session Time: 13:07

Courtroom: Courtroom3

Clerk(s): Rohrbach, Shari

State Attorney(s): Verharen, Art

Case ID: 0001

Case number: CR2010-15159
Plaintiff:
Plaintiff Attorney:
Defendant: Moses, Joshua
Pers. Attorney: Schwartz, Christopher
Co-Defendant(s):
State Attorney: Verharen, Art
Public Defender: Taylor, Anne

08/12/2010

14:06:35

Recording Started:

14:06:35

Case called

14:06:46

Judge: Harden, Quentin
Calls, def present and in custody. Prelim
Hearing.

14:07:00

State Attorney: Verharen, Art

14:07:17 **Public Defender: Taylor, Anne**
Waiver reading of Complaint.

14:07:30 **State Attorney: Verharen, Art**
Move to exclude witnesses, I have two witnesses.

14:07:41 **General:**
Time stamp

14:07:43 **Judge: Harden, Quentin**
Grant.

14:07:49 **Public Defender: Taylor, Anne**
There are witnesses that are in custody.

14:08:36 **Judge: Harden, Quentin**
Grant.

14:09:01 **State Attorney: Verharen, Art**
Call Walter Ward

14:09:26 **Other: Ward, Walter**
Sworn by clerk. I live in CDA. I know Joshua
Branam for about 8-9 months.

14:09:59 He's by brother in law. On July 24 I had contact
with him, I had a conversation

14:10:49 with him, then I took action.

14:11:12 I went to my bank, tried to withdraw 2500.00,
the ATM did not have that much

14:11:35 money in it, I picked up a friend and went to
ATM. Then went to Walmart at

14:11:57 9:05. Philip Connell was with me. I was driving
a green Toyota. I made a

14:12:43 phone call to a cell, it went to a message with
a girl named April. I went

14:13:11 into Walmart. I was approached by Mr Moses.

14:13:34 **Public Defender: Taylor, Anne**
Obj, foundation.

14:13:40 **Judge: Harden, Quentin**
Sustain

14:13:43 **Other: Ward, Walter**
The person that approached me is in the
courtroom, ID def. He asked me how
14:14:07 was I doing. There was some small talk, I told
Phillip to get in , I handed
14:14:47 Josh 2500.00 . That was the first time I met the
def. He said - I asked if he
14:15:10 knew where Joshua Bramam was and he said he'd
take me to him. I told Philip
14:15:31 to get in behind my seat. He had me pull into a
driveway of what looked like

14:17:44 street, left on McGuire, past
the bridge. He got out and gave me instruction
to a trailer park. I was drive
14:18:10 to the front of the trailer park and Josh would
meet me there. He attempted
14:18:24 to start his scooter, he started pushing it.
Philip got in the front seat, i
14:18:38 drove to the trailer park. A little later we saw
him ride by, then Joshua cam
14:18:58 e walking toward us. He had a swollen right
cheek, a cut, fat lip. His
14:19:25 piercing were removed.

14:19:41 **Public Defender: Taylor, Anne**
Obj

14:19:42 **Judge: Harden, Quentin**
sustain

14:19:46 **Other: Ward, Walter**
He was wearing a black t-shirt, jean. His
clothing did not appear clean. His
14:20:05 demeanor seemed nervous, very shook up. I
started the veh, I began asking him
14:20:47 what was going on. I took him to 17th and

14:21:06 Spokane, he got out and began
talkin to a male in a pickup, walked down the
street. I went to law
14:21:20 enforcement the same day, after about 40
minutes.
14:21:42 **Public Defender: Taylor, Anne**
CROSS
14:21:49 **Other: Ward, Walter**
Before July 24, I had seen Josh about 2 weeks
before that. I would see him
14:22:33 2-3 times a month. I was on the phone with him
10-20 minutes. I did not
14:24:00 I'll take you to him. I
14:24:51 agreed to load his dirt bike. The abandoned
house is behind the Sundowner
14:25:29 bar on Seltice. We drove down to Sunset Inn on
Seltice, right and went into
14:26:04 residential area. I went past the Post Falls
police. From the abandoned
14:27:13 house we went back to Seltice and to McGuire. I
saw Joshua about 9:30 or
14:28:26 9:45, probably closer to 10:00. Joshua was in the
veh no more than 5 minutes.
14:28:52 I took him to 17th and dropped him off. I talked
to police on July 24.
14:29:51 **State Attorney: Verharen, Art**
obj
14:29:54 **Judge: Harden, Quentin**
sustain
14:29:57 **Other: Ward, Walter**
14:30:20 **State Attorney: Verharen, Art**
REDIRECT

14:30:23 **Other: Ward, Walter**
I didn't stop at the Post Falls Police I was
afraid if I didn't follow the
14:30:52 instructions Joshua would be killed, I was told
not to go to police. I didn't
14:31:16 g to police until I made sure my wife was safe
and inform my mother in law
14:31:33 before I contacted police.

14:31:37 **Public Defender: Taylor, Anne**
CROSS

14:31:40 **Other: Ward, Walter**
The nerson from Walmart did not threaten me. He

14:32:00 **Other: Branam, Joshua**
Sworn by clerk. I live in CDA, I'm 34 yrs. I
know Walter Ward, brother in
14:33:33 law. I've known him abut 6-7 months. We're
friends. I know Joshua Moses.

14:34:01 **Pers. Attorney:**
Christopher Swartz: Obj

14:34:22 **Defendant: Moses, Joshua**

14:34:25 **Other: Branam, Joshua**
Exercise right.

14:34:30 **State Attorney: Verharen, Art**
Hands grant of immunity.

14:34:48 **Pers. Attorney: Schwartz, Christopher**
Comments re: immunity.

14:36:01 **Judge: Harden, Quentin**
Reviews.

14:36:57 **State Attorney: Verharen, Art**
Reviews statute.

14:38:58 The court doesn't need to sign off under 19-1114.

14:39:11 **Pers. Attorney: Schwartz, Christopher**
My client has a prelim today on resisting.

14:39:37 **Judge: Harden, Quentin**
If they grant immunity I'd think they'd have to dismiss the charge.

14:39:50 **State Attorney: Verharen, Art**
All the state is doing is - whatever he says here would not be used against him.

14:40:06

14:41:14 **State Attorney: Verharen, Art**
If the court is not inclined to accept the immunity so he will respond, I'd like to brief the this.

14:41:34

14:41:53 **Judge: Harden, Quentin**
My reading on 19-1115 contemplates a hearing before the court.

14:42:13 **State Attorney: Verharen, Art**
I haven't looked at this in a while.

14:42:23 **Judge: Harden, Quentin**
I'm not ready to have him answer - based on code. It contemplates a prior or seperate hearing.

14:42:47

14:42:58 **State Attorney: Verharen, Art**
Request you set this matter for such a hearing.

14:43:08 **Public Defender: Taylor, Anne**
I'm hearing the pros say he'd like to continue this, that would mean my client would be in custody longer than 14 days.

14:43:24

14:43:34 **Judge: Harden, Quentin**
That would be the issue.

14:44:51 **Public Defender: Taylor, Anne**
I've explained the situation to Mr Moses, we
will not object to the

14:45:13
continuance and allow this to be further
litigated.

14:45:19 **Judge: Harden, Quentin**
Order this be reset within 14 days. I won't be
back here until Sept. Vacate

14:45:40 and start over, between now and that hearing you

14:45:56 'll need to have your hearing on immunity. State

14:46:34 **Judge: Harden, Quentin**
Recess.

14:46:41 **Stop recording**

TRANSACTION REPORT

2010/AUG/11 WED 17:23

FAX (TX)

#	DATE	START T.	RECEIVER	COM. TIME	PAGE	TYPE/NOTE	FILE
001	AUG/11	17:20	PUBLIC DEFENDER	0:00:19	1	OK	SG3 8598

08/11/2010 WED 17:18 FAX 12083338800 Grove Hotel PDCANON

0001/001

2010/AUG/11/WED 15:03

KO CO PROSECUTOR

FAX No. 208-446-1841

P.002

ROEP 8/11

BARRY MCHUGH
Prosecuting Attorney

STATE OF IDAHO }ss
COUNTY OF KOOTENAI
FILED: 8-12-10
AT 3:00 O'CLOCK PM
CLERK, DISTRICT COURT

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE

STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI

STATE OF IDAHO,

Plaintiff,

vs.

JOSHUA MICHAEL MOSES,

Defendant.

Case No. CRF-10-15159

GRANT OF IMMUNITY

COMES NOW, BARRY MCHUGH, Prosecuting Attorney for Kootenai County, Idaho, and hereby agrees that Joshua Matthew Branam's testimony at the preliminary hearing in the above-captioned matter will not be used against Joshua Matthew Branam in any manner in a criminal case, except that he may nevertheless be prosecuted or subjected to penalty for perjury, false swearing, or contempt committed in testifying at the aforementioned preliminary hearing.

The undersigned regards this grant of immunity as in the public interest.

DATED this 11TH day of August, 2010

Barry MCHUGH
BARRY MCHUGH
Prosecuting Attorney

I hereby certify that on the 11 day of August, 2010, a true and correct copy of the foregoing was caused to be FAXED to the PUBLIC DEFENDERS OFFICE AND CHRIS SCHWARTZ.

M. Daniel

031.

ORIGINAL

Anne Taylor, Deputy Public Defender
Office of the Kootenai County Public Defender
PO Box 9000
Coeur d'Alene, Idaho 83816
Phone: (208) 446-1700; Fax: (208) 446-1701
Bar Number: 5836

STATE OF IDAHO
COUNTY OF KOOTENAI
FILED: LSS

2010 AUG 16 AM 9:37

CLERK DISTRICT COURT
[Signature]
DEPUTY

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI**

JOSHUA MICHAEL MOSES,)
)
)
)
Defendant.)

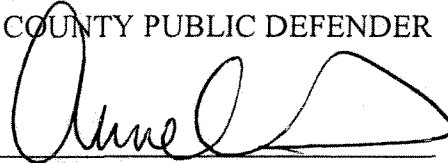
COMES NOW, the above named defendant, by and through his attorney Anne Taylor, Public Defender and hereby moves the Court for an Order directing the clerk of the court to prepare and complete the transcript of the Preliminary Hearing held in the above-entitled matter on August 12, 2010, before the Honorable Penny Friedlander. This motion is made on the grounds that the transcript of said hearing is necessary for defense counsel in order to prepare a defense on behalf of the defendant in this matter.

Counsel for the defendant further moves the Court to order that the costs necessary for the preparation and completion of the transcript be paid at county expense and at no expense to the Defense. This Motion is made on the grounds that the defendant was determined to be indigent by the above-entitled Court on 7/30/2010, and further, that his representation is provided for by the Office of the Public Defender.

DATED this 13 day of August, 2010

OFFICE OF THE KOOTENAI
COUNTY PUBLIC DEFENDER

BY:

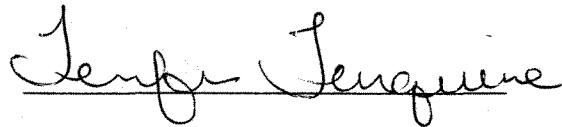


ANNE TAYLOR
DEPUTY PUBLIC DEFENDER

Transcript Department-Kootenai County Courthouse FAX 446-1187
Kootenai County Prosecutor FAX 446-1833

Via Fax

Interoffice Mail



Anne Taylor, Deputy Public Defender
Office of the Kootenai County Public Defender
PO Box 9000
Coeur d'Alene, Idaho 83816
Phone: (208) 446-1700; Fax: (208) 446-1701
Bar Number: 5836

STATE OF IDAHO } SS
COUNTY OF KOOTENAI }
FILED: 8-18-10
AT 9:29 O'CLOCK A.M.
CLERK, DISTRICT COURT
Ann Taylor
DEPUTY

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI**

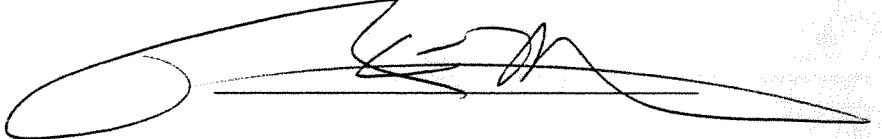
JOSHUA MICHAEL MOSES,)
)
)
)
 Defendant.)

The Court having before it the foregoing Motion and good cause appearing, now, therefore,
IT IS HEREBY ORDERED that the clerk of the court shall prepare and complete the
transcript of the Preliminary Hearing held in the above-entitled matter on August 12, 2010.

IT IS FURTHER ORDERED that the costs necessary for the preparation and completion of
said transcript shall be paid at county expense and at no expense to the defense.

IT IS FURTHER ORDERED that the transcript shall be complete and submitted to all parties
~~to this action no later than the _____ day of _____, 2010.~~ IN ONE COPIE

DATED this 18 day of August, 2010.



CLERK'S CERTIFICATE

I hereby certify that a true and correct copy of the foregoing was personally served by placing a copy of the same as indicated below on the 18 day of August, 2010, addressed to:

Transcript Department - Kootenai County Courthouse 446-1187 ✓

7051

Kootenai County Public Defender 446-1701 ✓

STATE OF IDAHO } ss
COUNTY OF KOOTENAI }

FILED: 8-19-10

AT 3:48 O'CLOCK P.M.

CLERK, DISTRICT COURT

[Handwritten signature]
DEPUTY

CHRISTOPHER D. SCHWARTZ
SCHWARTZ LAW OFFICE, PC
Conflict Public Defender
206 Indiana Ave., Suite 102
Coeur d'Alene, ID 83814
Telephone: (208) 930-4970
Facsimile: (208) 930-4972
ISBA# 7060

THE STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI

STATE OF IDAHO,

Plaintiff,

vs.

JOSHUA MICHAEL MOSES

Defendant.

) Case No. CR 10-15159
)
) **MOTION TO QUASH SUBPOENA**
)
)
)
)
)
)
)
)
)
)

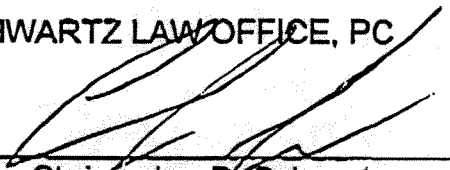
COMES NOW, JOSHUA M. BRANAM, by and through his attorney of record, CHRISTOPHER D. SCHWARTZ, of the law firm Schwartz Law Office, PC, and hereby moves this Court for an Order quashing the subpoena which requires Joshua Branam to appear at a preliminary hearing scheduled for August 20, 2010 at the hour of 9:00 a.m., in the above mentioned case. This motion is brought pursuant to Idaho Criminal rule 17 and Idaho Civil rule 45(d).

This request is made on the grounds that Joshua Branam invokes his 5th amendment right to remain silent.

This case was previously set for preliminary hearing on August 12, 2010, before the honorable Judge Harden. Judge Harden ruled that Mr. Branam was not required to testify. Now rather than honor the Court's ruling, the state has served Mr. Branam

SCHWARTZ LAW OFFICE, PC


By


Christopher D. Schwartz
Attorney for Joshua Branam

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 19 day of August, 2010, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

Kootenai County Prosecutor's Office
501 N. Government Way
P.O. Box 0000


Mindy R. Derhaag

Court Minutes:

Session: WATSON082010A
Session Date: 08/20/2010
Judge: Watson, Barry
Reporter:

Division: MAG
Session Time: 07:42

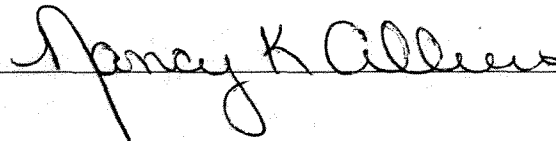
Courtroom: Courtroom4

Clerk(s): Albers, Nancy

State Attorney(s):
Studor, Josh

Prob. Officer(s):

Court interpreter(s):



Case ID: 0007

Case number: CR2010-15159

Plaintiff:

Plaintiff Attorney:

Defendant: MOSES, JOSHUA MICHAEL

Pers. Attorney:

Co-Defendant(s):

State Attorney: Verharen, Art

Public Defender: Taylor, Anne

Additional audio and annotations can be found in case: 0008.

08/20/2010

10:42:35

Recording Started:

10:42:35

Case called

10:42:38

Judge: Watson, Barry

CALLS CASE PA/DA/DEFENDANT (IN CUSTODY) PRESENT

10:42:51 **State Attorney: Verharen, Art**
READY TO PROCEED

10:42:58 **Public Defender: Taylor, Anne**
READY TO PROCEED

10:43:08 **Judge: Watson, Barry**
MR SCHWARTZ REPRESENTS A WITNESS - JOSHUA BRANAM
- FILED MOTION TO QUASH

10:43:33 SUBP FOR CLIENT

10:43:30 **Add Ins: SCHWARTZ, CHRISTOPHER**

10:44:37 **Judge: Watson, Barry**
DOCKETED 8/12/10 GRANT ON IMMUNITY SIGNED BY
BARRY MCHUGH

10:45:09 **Add Ins: SCHWARTZ, CHRISTOPHER**
HAD AT THE LAST HEARING BUT CODE REQUIRES A
HEARING

10:45:23 **Judge: Watson, Barry**
CODE SECTION DOES CONTEMPLATES A HEARING -

10:45:37 **State Attorney: Verharen, Art**
STATUE WAS PROPOSED BY COUNSEL TO JUDGE HARDEN
AT THE LAST PRELIM AND JUDGE

10:45:56 HARDEN MADE THE RULING AND I WENT BACK AND
REVIEWED AND CODE IS IN REGARD TO

10:46:23 GRAND JURY -

10:46:27 **Add Ins: SCHWARTZ, CHRISTOPHER**
CLEAR STATES - ANY CRIMINAL PROCEDURE

10:46:46 **State Attorney: Verharen, Art**
ARGUES - STATUE IS ONLY IN THE GRAND JURY
SECTION BUT IF COURT FEELS A

10:47:11 HEARING NEEDED LIKE TO HAVE THAT NOW

10:47:16 **Judge: Watson, Barry**
REVIEWS THE CODE AND STARTS WITH IN ANY CRIMINAL
PROCEEDING - THIS ISSUE HAS
10:47:38 COME UP IN THE PAST WITH ME TWO TIMES PRIOR -
EXPLAINS THOSE SITUATIONS
10:48:46 CODE DOES INDICATES HEARING NEEDS TO BE BY A
JUDGE FROM THE DISTRICT COURT -
10:49:36 **Add Ins: SCHWARTZ, CHRISTOPHER**
I FEEL THAT A DISTRICT COURT SHOULD HEAR AND
EVEN IF YOU DECIDE THIS COURT
10:49:57 CAN HEAR - NEEDS TO BE NOTICED FOR HEARING AND I
NEED TIME TO PREPARE
10:50:19 I ONLY LEARNED OF THIS HEARING FROM DEFENSE

10:51:12 BELIEVE THIS IS EVEN MORE REASON FEEL STATUE FOR
GRAND JURY - AND FEEL THIS
10:51:44 COURT HAS JURISDICTION AT PRELIM HEARING

10:51:55 **Add Ins: SCHWARTZ, CHRISTOPHER**
ARGUES - NOTICE AND THIS COURT CAN NOT BIND A
DISTRICT COURT TO ORDER

10:52:22 **Public Defender: Taylor, Anne**
AGREE WITH MR SCHWARTZ -

10:52:38 **Judge: Watson, Barry**
FEEL IMMUNITY CAN ONLY BE GRANTED BY THE
PROSECUTOR BUT A PROCEDURE NEEDS TO
10:52:57 BE DONE - NEEDS TO BE DONE BY HEARING - AT THIS
POINT IN EXERCISE OF CAUTION
10:53:57 I WOULD TAKE POSITION DISTRICT JUDGE HAS
JURISDICTION AND DECLINE TO RULE ON
10:54:16 THAT - I WOULD GRANT THE MOTION TO QUASH THE
SUBPEONA OF MR SCHWARTZ'S CLIENT
10:54:43 AND HE IS EXCUSED MR SCHWARTZ PREPARE ORDER

10:54:57 **State Attorney: Verharen, Art**
WILL PROCEED

10:55:08 **Public Defender: Taylor, Anne**
WAIVE READING OF COMPLAINT

10:55:18 **State Attorney: Verharen, Art**
WILL ONLY PROCEED ON CT 2 ONLY - DISMISS CT 1 &
3

10:55:58 **Public Defender: Taylor, Anne**
OBJECTION TO DISMISSAL 2ND TIME HERE ON PRELIM
CLIENT IN CUSTODY - CT 1 JUST

10:56:23 FILED AT LAST HEARING - COMMENTS - REGARDING
SITUATION -

10:56:30 **Judge: Watson, Barry**

SWEARS WITH

10:57:34 **Add Ins: WARD, WALTER**
RESIDE IN CDA IDAHO - WORK IN CDA - WIFE -
SHAYLYNNE MARIE WARD - SHE HAS A

10:58:02 BROTHER JOSHUA BRANAM - KNOW HIM HAVE FOR 4 -5
MONTHS - HE IS MY BROTHER IN

10:58:22 LAW - 7/24/10 GOT A CALL FROM BROTHER IN LAW AT
ABOUT 7 AM - SPOKE FOR ABOUT

10:58:54 5 MIN - I WAS AT MY HOUSE - DURING THE
CONVERSATION SOMEONE ELSE GOT ON PHONE

10:59:13 - ON PHONE WITH JOSH AND WITH OUT WARNING PHONE
HANDED TO ANOTHER MAN AND

10:59:32 THEN BRIEF CONVERSATION AND THEN BACK TO BROTHER
IN LAW - AND HE RELAYED

10:59:51 INFORMATION TO ME - AFTER THE CALL I GOT DRESSED
AND DROVE TO BACK TO TRY AND

11:00:05 WITHDRAW \$2500

11:00:12 **Public Defender: Taylor, Anne**
OBJECTION

11:00:14 **Judge: Watson, Barry**
SUSTAINED

11:00:21 **Add Ins: WARD, WALTER**

WASN'T ABLE TO GET \$2500 FROM BANK - WE WITHDREW
\$2500 FROM 5 -6 DIFFERENT
11:00:43 BANKS AMOUNTS FROM \$300 TO \$800 FROM MY WIFE'S
CHECKING ACCOUNT - WE DROVE TO
11:01:05 WALMART IN POST FALLS - I MADE A SERIES OF CALLS
TO A PHONE - WASHINGTON # -
11:01:23 MESSAGE SAID PHONE BELONGED TO APRIL - BUT THAT
WAS THE PHONE JOSH HAD CALLED
11:01:41 FROM EARLIER - EXPLAINS VEHICLE DRIVING -
WALMART KOOTENAI COUNTY IDAHO - I
11:02:04 WAS THERE FROM 5 MIN AFTER 9 UNTIL ABOUT 9:40 A.
M. I WAS WAITING TO MEET
11:02:27 SOMEONE

~~11:02:37~~ ~~ADD INS: WARD, WALTER~~
I DID MEET SOMEONE - I WAS APPROACHED BY THEM IN
THE WALMART PARKING LOT - I
11:02:56 WAS STANDING OUTSIDE VEHICLE SMOKING AND TALKING
TO FRIEND - MALE APPROACHED
11:03:15 ME - SHOOK HANDS - SMALL TALK - HAD MY FRIEND
EXIT CAR AND HAD MALE GET IN
11:03:39 CAR - IDENTIFIES DEFENDANT AS MALE MET IN
PARKING LOT - I DROVE AROUND TO
11:03:56 FRONT OF WALMART AND WE PUT A SMALL DIRT BIKE IN
TRUCK - I HAD GIVEN THE MALE
11:04:15 THE \$2500 - I PULLED OUT THE WAD OF \$20'S AND I
ASKED HIM WHERE JOSHUA BRANAM
11:04:37 WAS AND HE SAID WOULD TAKE ME TOO HIM AND HE PUT
IN HIS POCKET AFRAID

11:04:58 **Public Defender: Taylor, Anne**
OBJECTION

11:05:00 **Judge: Watson, Barry**
SUSTAINED

11:05:05 **Add Ins: WARD, WALTER**
HE TOLD ME TO DRIVE TO FRONT OF WALMART AND PUT
SCOOTER IN BACK OF CAR - HE
11:05:34 TOLD ME WHERE TO GO AND WHERE TO TURN - WHEN HE

11:05:52 SPOKE HE HAD A SPANISH ACCENT
-
11:05:58 **Public Defender: Taylor, Anne**
OBJECTION
11:06:01 **Judge: Watson, Barry**
OVERULED
11:06:06 **Add Ins: WARD, WALTER**
SAME VOICE AND ACCENT I SPOKE WITH IN THE
MORNING ON THE PHONE
11:06:23 **Public Defender: Taylor, Anne**

11:06:48 WANTED HIS MONEY NO MORE NO
LESS NOT FUCKING AROUND - NO HOLLYWOOD BULLSHIT
11:07:01 THAT THE CELL PHONE CALLING
FROM DIDN'T BELONG TO ANYONE AND COULD CALL TO
CONTACT HIM AND CALL HIM TO
11:07:16 MEET IN PARKING LOT AT WALMART IN POST FALLS - I
FELT FEAR FOR MY BROTHER -
11:07:34 IN-LAWS SAFTERY - FELT IT WAS A THREAT ON JOSH'S
SAFETY
11:07:55 **Public Defender: Taylor, Anne**
OBJECTION
11:07:56 **Judge: Watson, Barry**
OVERULED
11:08:00 **Add Ins: WARD, WALTER**
I GAVE HIM \$2500 BECAUSE OF FEAR FOR JOSH'S
SAFETY - WE TOOK LEFT OUT OF
11:08:28 WALMART PARKING LOT - BEHIND POST FALLS POLICE
DEPT - THE A LEFT AND RIGHT TO
11:08:44 SELTICE - PULLED INTO A DRIVEWAY AND SAID
GETTING OUT AND GOING TO RIDE
11:09:01 SCOOTER DOWN BIKE TRAIL AND I WAS TO MEET MY
BROTHER AT PARK IN POST FALLS

11:09:23 -INSTRUCTIONS TO PARK UNCLEAR - I TOLD HIM
WANTED HIM TO TAKE ME TO PARK - HE
11:09:38 SAID FINE DROVE BACK TO SELTICE TO MCGUIRE AND
OVER FREEWAY - GOT OUT TO
11:09:59 A PATH AND SAID GOING TO UNCLE'S SPOT AND HAVE
BROTHER MEET ME IN FRONT OF
11:10:21 TRAILER PARK - HE COULDN'T GET BIKE STARTED - WE
WENT TO WHERE TOLD - SAW HIM
11:10:39 RIDE BY AND ABOUT 15 MIN LATER JOSHUA BRANAM
CAME WALKING UP

11:10:53 **Public Defender: Taylor, Anne**
OBJECTION

11:11:56 GLASSES - HE WAS SHAKEN AND
VISABLY UPSET - GENERALLY JITTERY - HE GOT IN
THE CAR AND ASKED FOR CIGERETTE
11:12:23 - I BACKED CAR UP AND WE HEADED FOR SELTICE WAY
SO STARTED ASKING HIM
11:12:41 QUESTIONS WHERE HAD BEEN AND WHAT GOING ON

11:12:51 **Public Defender: Taylor, Anne**
OBJECTION

11:12:53 **Judge: Watson, Barry**
SUSTAINED

11:12:57 **Add Ins: WARD, WALTER**
ABOUT 15 - 20 MIN LATER I DROPPED HIM AT 17TH
AND --- I THEN SPOKE WITH
11:13:25 POLICE - DIDN'T CALL THE POLICE

11:13:36 **Public Defender: Taylor, Anne**
OBJECTION

11:13:38 **Judge: Watson, Barry**
OVERULED

11:13:41 **Add Ins: WARD, WALTER**

11:14:05 I HAD BEEN TOLD NOT TO CALL THE POLICE ON THE
MORNING CALL - DURING RIDE FROM
WALMART TO WHERE DROPPED DEF OFF - HE ASKED WHAT
I HAD DONE IN MILITARY ASKED
11:14:24 IF I HAD KILLED ALOT OF PEOPLE - I TOLD HIM I
HAD KILLED 11 PEOPLE -HE SAID
11:14:40 TAKING A LIFE NOT AN EASY THING DIDN'T WANT TO
DO IT - I CHANGED
11:14:56 CONVERSTATION - ABOUT HOW LONG BEEN HERE - SAID
HERE A FEW MONTHS - HE TOLD
11:15:09 ME THAT HIS UNCLE HAD FRONTED JOSH \$2500 WORTH
OF DRUGS - ASKED WHAT KIND HE
11:15:30 NEVER ANSWERED - HE MADE A JOKE ABOUT US HAVING
WEAPONS OR SHARP OBJECTS -

11:16:09 **Add Ins: WARD, WALTER**
KNOWN JOSH BRANAM 8-9 MONTHS - ON AVERAGE SEE
HIM ABOUT ONCE A WEEK - BEFORE

11:16:33 7/24/10 HAD SEEN HIM PREVIOUS WEEKEND -

11:16:49 **State Attorney: Verharen, Art**
OBJECTION

11:16:51 **Judge: Watson, Barry**
OVERULED

11:17:04 **Add Ins: WARD, WALTER**
MY WIFE AND I WERE DRIVING PAST A BUS STOP - SAW
HIM AND GIRLFRIEND AT BUS

11:17:26 STOP AND STOPPED AND OFFERED THEM A RIDE TOOK
THEM TO MY HOME THEY HAD LUNCH

11:17:48 AND SHOWERED AND SLEPT HIM MOM PICKED HIM UP AND
TOOK TO HOTEL - HE WASN'T

11:18:05 OVERLY DIRTY - HADN'T SHAVED COUPLE DAYS - NO
INJURIES ON FACE - BUT HAD A

11:18:25 CUT ON UPPER ARM

11:18:34 **State Attorney: Verharen, Art**
OBJECTION

11:18:38 **Judge: Watson, Barry**
SUSTAINED

11:18:41 **State Attorney: Verharen, Art**
OBJECTION

11:18:45 **Judge: Watson, Barry**
OVERULED

11:18:48 **Add Ins: WARD, WALTER**
KNOW WHAT HOTEL HE WAS STAYING AT - 7/24/10 GOT
PHONE CALL - DIDN'T RECOGNIZE

11:19:12 HIS VOICE IMMEDIATELY - I HAD TO ASK WHO IT WAS
- I WASN'T ASLEEP -HAD CALLED

11:21:02 ONE OTHER VOICE - MALE - NO FEMALE VOICES -
ANOTHER 15 - 20 SECONDS ON PHONE

11:21:25 WITH JOSH - MAYBE LONGER - I TOLD POLICE ABOUT
SPANISH ACCENT DIDN'T TESTIFY

11:21:55 ABOUT THAT AT LAST HEARING - DROVE A RAV 4 -
GREEN MY CAR - DON'T NORMALLY

11:22:14 USE IT

11:22:15 **State Attorney: Verharen, Art**
OBJECTION

11:22:19 **Judge: Watson, Barry**
SUSTAINED

11:22:23 **Add Ins: WARD, WALTER**
DAYTIME AT WALMART - LOTS OF PEOPLE IN PARKING
LOT WHEN PERSON APPROACHED

11:22:40 ME - DON'T RECALL WHAT WEARING - TALKED FOR
UNDER A MINUTE - DIDN'T SEE ANY

11:23:00 WEAPON DIDN'T THREATEN ME - DIDN'T TRY TO HIDE
IDENTITY - GOT THE SMALL

11:23:25 MOTORBIKE - SPOKE WITH HIM FOR 15 -20 MIN -
NEVER SHOWED ME A WEAPON OR

11:24:07 THREATEN ME OF

11:24:21 I HAD A WEAPON

11:24:25 **State Attorney: Verharen, Art**
OBJECTION

11:24:27 **Judge: Watson, Barry**
SUSTAINED

11:24:30 **State Attorney: Verharen, Art**
OBJECTION

11:24:35 **Judge: Watson, Barry**
SUSTAIN

11:24:52 **Add Ins: WARD, WALTER**
WALMART TO LEFT AT LIGHT AND RIGHT ON SELTICE -

11:26:09 **State Attorney: Verharen, Art**
OBJECTION

11:26:15 **Judge: Watson, Barry**
OVERULED

11:26:19 **Add Ins: WARD, WALTER**
DON'T RECALL - WE WERE TOWARD END OF
NEIGHBORHOOD - THEN BACK TO SELTICE TO

11:26:39 MCGUIRE AND DIRT ROAD - KNOW HIS VOICE THE SAME
AS ONE ON PHONE IN MORNING -

11:27:14 TOLD POLICE ABOUT THAT - TOLD \$2500 NO MORE NO
LESS -

11:27:38 **State Attorney: Verharen, Art**
OBJECTION

11:27:41 **Judge: Watson, Barry**
REPHASE

11:28:06 **State Attorney: Verharen, Art**
OBJECTION

11:28:12 **Judge: Watson, Barry**
SUSTAINED

11:28:15 **Add Ins: WARD, WALTER**
VOICE ON PHONE DIDN'T THREATEN HIS LIFE OR
HEALTH DIRECTLY - HE HAD A CUT
11:28:50 ABOVE HIS RIGHT EYE NOT ACTIVELY BLEEDING LOOKED
FRESHED WOUND - HE HAD A
11:29:09 GARBAGE BAG AND WATER BOTTLE - HE DIDN'T USUALLY
CARRY GARBAGE BAG - USUALLY
11:29:28 CARRIED A BAG - EITHER BACKPACK OR MESSENGER BAG
BUT ALWAYS HAD A BAG WITH
11:29:49 HIM - HE WAS SHAKEN AND JITTERY - NEVER SEEN HIM
HIGH
11:30:17 **State Attorney: Verharen, Art**
OBJECTION

11:30:25 **Judge: Watson, Barry**
SUSTAINED

11:30:29 **Add Ins: WARD, WALTER**
OFFICER I CONTACTED AT LAKE CITY HIGH SCHOOL
BECAUSE SAW HIM BEEN TRYING TO
11:30:59 CONTACT ISP BEFORE -

11:31:08 **State Attorney: Verharen, Art**
OBJECTION

11:31:16 **Public Defender: Taylor, Anne**
ARGUES

11:31:27 **Judge: Watson, Barry**
OVERULED

11:32:14 **State Attorney: Verharen, Art**
OBJECTION

11:32:19 **Judge: Watson, Barry**
OVERULED

11:32:27 **Add Ins: WARD, WALTER**
NOT AWARE OF THAT - AWARE OF JOSH'S NICKNAME

LIFE

- 11:33:03 **State Attorney: Verharen, Art**
OBJECTION
- 11:33:07 **Judge: Watson, Barry**
SUSTAINED
- 11:33:10 **Public Defender: Taylor, Anne**
REQUEST SOME LEADWAY - WE ARE GOING TO HAVE
WITNESSES WHO ONLY KNOW HIM BY
- 11:33:27 THAT NAME
- 11:33:29 **Judge: Watson, Barry**
-
- 11:34:14 - DON'T KNOW LAST TIME HAD AN ACTIVE CELL PHONE-
DON'T KNOW IF HE HAD ANY
- 11:34:51 MONEY
- 11:34:52 **Public Defender: Taylor, Anne**
NOTHING FURTHER
- 11:34:57 **State Attorney: Verharen, Art**
REDIRECT
- 11:35:04 **Add Ins: WARD, WALTER**
DIDNT RECOGNIZE HIS VOICE ON PHONE - SOUNDS ALOT
LIKE MY BROTHER - COULD HEAR
- 11:35:29 VOICE IN BACKGROUND - SAME VOICE I SPOKE ON
PHONE WITH - EXPLAINS WHAT HEARD
- 11:36:00 BEING SAID - NEVER DIRECTLY THREATENED ME -
- 11:36:20 **Public Defender: Taylor, Anne**
OBJECTION
- 11:36:22 **Judge: Watson, Barry**
SUSTAINED
- 11:36:26 **Add Ins: WARD, WALTER**
INDIRECTLY THREATENED

11:36:31 **State Attorney: Verharen, Art**
NOTHING FURTHER

11:36:35 **Public Defender: Taylor, Anne**
CROSS

11:36:37 **Add Ins: WARD, WALTER**
BROTHER IN LAW AND BROTHER SOUND SIMILAR -
DIDN'T GET VOICES CONFUSED COULD

11:37:16 HAVE GONE EITHER WAY -

11:37:28 **Public Defender: Taylor, Anne**
NOTHING FURTHER

Court Minutes:

Session: WATSON082010A
Session Date: 08/20/2010
Judge: Watson, Barry
Reporter:

Division: MAG
Session Time: 07:42

Courtroom: Courtroom4

Clerk(s): Albers, Nancy

Taylor, Anne
Zanetti, Craig

Prob. Officer(s):

Court interpreter(s):

Case ID: 0008

Case number: CR2010-15159

Plaintiff:

Plaintiff Attorney:

Defendant: MOSES, JOSHUA MICHAEL

Pers. Attorney:

Co-Defendant(s):

State Attorney: Verharen, Art

Public Defender: Taylor, Anne

Previous audio and annotations can be found in case: 0007

Additional audio and annotations can be found in case: 0009.

08/20/2010

11:39:13

Recording Started:

11:39:13

Case recalled

11:39:23

State Attorney: Verharen, Art
CALLS W#2

11:39:52

Add Ins: DRY, CRYSTAL
RESIDE IN CDA - KNOW JOSHUA MOSES - FRIEND -
IDENTIFIES DEFENDANT IN

11:40:13

COURTROOM

11:40:17

State Attorney: Verharen, Art
NOTHING FURTHER

OBJECTION

11:41:16

Judge: Watson, Barry
SUSTAINED

11:41:24

Public Defender: Taylor, Anne
NOTHING FURTHER

11:41:30

State Attorney: Verharen, Art
NOTHING FURTHER- RESTS

11:41:36

Public Defender: Taylor, Anne
WE HAVE 8 WITNESSES -

11:41:56

LIKE A COUPLE MINUTES TO DISCUSS

11:42:07

Stop recording
(On Recess)

11:45:30

Recording Started:

11:45:30

Record
MOSES, JOSHUA MICHAEL

11:45:30

Judge: Watson, Barry

BACK ON THE RECORD

- 11:45:35 **Public Defender: Taylor, Anne**
WE WILL HAVE WITNESSES - 7
- 11:45:53 CALL W#3
- 11:46:01 **Other: CLERK**
SWEARS W#3
- 11:46:49 **Add Ins: SPEER, ALAN**
OFFICER CDA POLICE DEPT - EXPERIENCE AND
TRAINING 7/22/10
- 11:47:08 **State Attorney: Verharen, Art**
- 11:47:58 **Add Ins: SPEER, ALAN**
ON DUTY - DAY SHIFT - APPX 3:30 P.M. TRAFFIC
STOP - PERSON IN CAR JOSHUA
- 11:48:25 BRANAM - IN RIGHT REAR PASSENGER SEAT ONLY ONE
IN BACK SEAT - DEFENDANT NOT
- 11:48:45 IN CAR - SPOKE WITH JOSHUA BRANAM -
- 11:48:57 **State Attorney: Verharen, Art**
OBJECTION
- 11:49:05 **Judge: Watson, Barry**
SUSTAINED
- 11:49:11 **Add Ins: SPEER, ALAN**
BACKPACK LOCATED IN REAR SEAT LATER BACK SEAT
WHERE JOSHUA BRANAM WAS SITTING
- 11:49:37 AT THE STOP
- 11:49:40 **State Attorney: Verharen, Art**
OBJECTION
- 11:49:45 **Judge: Watson, Barry**
SUSTAINED

11:49:50 **Add Ins: SPEER, ALAN**
JOSHUA TOOK OFF - DIDN'T KNOW HIS NAME THEN -
RAN ACROSS HWY TO FENCE LINE -

11:50:14 GAVE CHASE

11:50:19 **State Attorney: Verharen, Art**
OBJECTION

11:50:24 **Judge: Watson, Barry**
OVERULED

11:50:28 **Add Ins: SPEER, ALAN**
LOCATED IN BACKPACK WITH HIS NAME ON IT - AND
PHOTOS - CONFIRMED IN CAR ON

11:51:32 **State Attorney: Verharen, Art**
OBJECTION

11:51:43 **Public Defender: Taylor, Anne**
ARGUES

11:51:48 **Judge: Watson, Barry**
SUSTAINED

11:51:51 **Public Defender: Taylor, Anne**
NOTHING FURTHER

11:51:56 **State Attorney: Verharen, Art**
CROSS

11:51:59 **Add Ins: SPEER, ALAN**
WHEN CONTACTED MR BRANAM - NO INJURIES ON HIS
FACE - FRONT SEAT PASSENGER WAS

11:52:27 ROBERT PERRY -WHEN SAW

11:52:34 **Public Defender: Taylor, Anne**
OBJECTION

11:52:36 **Judge: Watson, Barry**

SUSTAINED

- 11:52:39 **Add Ins: SPEER, ALAN**
SAW HIM GO OVER THE FENCE - HE CLIMBED OVER
FENCE HALFWAY - TASER MISSED HE
- 11:53:06 WENT OVER FENCE NEVER SAW HIS FACE STRIKE FENCE
OR GROUND
- 11:53:23 **State Attorney: Verharen, Art**
NOTHING FURTHER
- 11:53:27 **Public Defender: Taylor, Anne**
REDIRECT

NOTHING FURTHER

- 11:54:13 **State Attorney: Verharen, Art**
NOTHING FURTHER
- 11:54:17 **Stop recording**
-

Court Minutes:

Session: WATSON082010A
Session Date: 08/20/2010
Judge: Watson, Barry
Reporter:

Division: MAG
Session Time: 07:42

Courtroom: Courtroom4

Clerk(s): Albers, Nancy

Taylor, Anne
Zanetti, Craig

Prob. Officer(s):

Court interpreter(s):

Case ID: 0009

Case number: CR2010-15159

Plaintiff:

Plaintiff Attorney:

Defendant: MOSES, JOSHUA MICHAEL

Pers. Attorney:

Co-Defendant(s):

State Attorney: Verharen, Art

Public Defender: Taylor, Anne

Previous audio and annotations can be found in case: 0008

08/20/2010

11:54:17

Recording Started:

11:54:17

Case recalled

- 11:54:26 **Public Defender: Taylor, Anne**
RECALLS W#2
- 11:54:35 **Add Ins: DRY, CRYSTAL**
KNOWN MR MOSES 4 MONTHS WE TALK QUITE OFTEN -
HAS A SPANISH ACCENT BUT NOT
- 11:55:07 REAL HEAVY - 7/10 HUNG OUT WITH MR MOSES
- 11:55:21 **State Attorney: Verharen, Art**
OBJECTION
- 11:55:24 **Public Defender: Taylor, Anne**
- 11:56:36 **Public Defender: Taylor, Anne**
OBJECTION
- 11:56:39 **Judge: Watson, Barry**
DENY AMENDMENT
- 11:56:52 **Add Ins: DRY, CRYSTAL**
HUNG OUT AT ROBERT PERRY'S HOME ALL MONTH MOST
OF JULY JOSH MOSES HUNG OUT
- 11:57:19 THERE - MET JOSHUA BRANAM - KNOWN AS LIFE
- 11:57:34 **State Attorney: Verharen, Art**
OBJECTION
- 11:57:37 **Judge: Watson, Barry**
OVERULED
- 11:57:44 **Add Ins: DRY, CRYSTAL**
IT WAS IN JULY - DON'T KNOW EXACT DATE MR MOSES
WENT TO JAIL -
- 11:58:16 **State Attorney: Verharen, Art**
OBJECTION
- 11:58:19 **Judge: Watson, Barry**

SUSTAINED

11:58:21 **State Attorney: Verharen, Art**
OBJECTION

11:58:23 **Judge: Watson, Barry**
OVERULED

11:58:27 **Add Ins: DRY, CRYSTAL**
IT WAS IN JULY 2010 - MET JOSHUA BRANAM KNOWN AS
LIFE A COUPLE WEEKS PRIOR -

11:58:47 **State Attorney: Verharen, Art**
OBJECTION

11:59:35 **Add Ins: DRY, CRYSTAL**
EXPLAINS WHO ALL HUNG OUT AT ROBERT'S HOUSE -
12:00:29 WHEN FIRST MET LIFE -NORMAL 8 OR SO PEOPLE - JAY
IS WHAT I CALL JOSHUA MOSES
12:00:49 -FROM WHEN FIRST MET JOSHUA BRANAM AND WHEN MR
MOSES ARRESTED SAY HOM DAILY -
12:01:18 AT ROBERT PERRY'S AND THEN MY HOTEL ROOM - HE
CAME AND WENT AS HE WANTED TO -
12:01:33 BROUGHT PEOPLE WITH HIM - TIMES JOSHUA BRANAM
THERE AND JOSHUA MOSES NOT

12:02:07 **State Attorney: Verharen, Art**
OBJECTION

12:02:09 **Judge: Watson, Barry**
PREMATURE

12:02:19 **Add Ins: DRY, CRYSTAL**
IN JULY 2010 RENTED MOTEL ROOM BUDGET SAVER
RENTED ON 7/22/10 SUPPOSE TO BE
12:02:45 FOR 1 WEEK BUT KICKED OUT TUESDAY - WHEN RENTED
MOTEL ROOM KNEW JOSHUA BRANAM
12:03:11 - HANG OUT WITH HIM A COUPLE TIME -JOSHUA MOSES
NOT WITH ME DIDN'T STAY THERE
12:03:30 - JOSHUA BRANAM STAYED THERE - NEEDED A PLACE TO

STAY

- 12:03:47 **State Attorney: Verharen, Art**
OBJECTION
- 12:03:52 **Judge: Watson, Barry**
SUSTAINED
- 12:03:56 **Add Ins: DRY, CRYSTAL**
JOSHUA BRANAM STAYED THERE 3 -4 DAYS - AT A TIME
POLICE WERE CALLED TO MOTEL
- 12:04:12 - I ASKED TO HAVE THEM CALLED - JOSHUA NOT THERE
WHEN THEY CAME - HE GOT IN
- 12:04:26 VEHICLE AND LEFT - NOT FORCED INTO VEHICLE -
-
- 12:06:51 **State Attorney: Verharen, Art**
OBJECTION
- 12:06:56 **Judge: Watson, Barry**
OVERULED
- 12:07:01 **Add Ins: DRY, CRYSTAL**
NEVER SAW JAY HOLD JOSHUA BRANAM AGAINST HIS
WILL
- 12:07:22 **Public Defender: Taylor, Anne**
NOTHING FURTHER
- 12:07:27 **State Attorney: Verharen, Art**
CROSS
- 12:07:33 **Add Ins: DRY, CRYSTAL**
I USE TO DATE JOSHUA MOSES - BUT NO LONGER -
JUST FRIENDS - SOMETIMES CAN
- 12:07:57 HEAR HIS ACCENT -RENTED MOTEL ON A FRIDAY - IT
WAS TUESDAY - JOSHUA BRANAM
- 12:08:34 CAME TO MY MOTEL ROOM ON SUNDAY PRETTY MUCH
STAYED AROUND - I WASN'T USING
- 12:08:56 METH AT TIME

12:09:07 **State Attorney: Verharen, Art**
ARGUES

12:09:17 **Public Defender: Taylor, Anne**
OBJECTION

12:09:20 **Judge: Watson, Barry**
SUSTAINED

12:09:24 **Add Ins: DRY, CRYSTAL**
ONLY HAD SOME DRINKS BUT NOT OFTEN

12:09:41 **Public Defender: Taylor, Anne**
OBJECTION

12:10:02 METH AT ROBERT PERRY'S HOME - WHEN SAW JOSHUA
BRANAM AT MOTEL HAD INJURY ON

12:10:32 FACE - HIS EYE - LIP AND ARM - HEARD WALTER WARD
TESTIFY -

12:11:00 **Public Defender: Taylor, Anne**
OBJECTION

12:11:02 **Judge: Watson, Barry**
SUSTAINED

12:11:06 **Add Ins: DRY, CRYSTAL**
LAST TIME SAW MR MOSES - WAS DAY RENTED MOTEL -
COULD HAVE SEEN HM LATER THAT

12:11:55 DAY OR WHEN WENT TO JAIL - ONLY SPOKE WITH
LAWYERS AND MOTHER ABOUT THIS CASE

12:12:18 - MAYBE LITTLE TO ROOMMATES

12:12:38 **State Attorney: Verharen, Art**
NOTHING FURHTER

12:12:42 **Public Defender: Taylor, Anne**
REDIRECT

12:12:46 **Add Ins: DRY, CRYSTAL**

I CONSIDERED JOSHUA BRANAM A FRIEND FIRST SAW
INJURIES ON HIM BEFORE MOTEL
12:13:09 ROOM - DIDNT SEE JAY - SATURDAY - SUNDAY -
MONDAY OR TUESDAY AT MOTEL

12:13:42 **Public Defender: Taylor, Anne**
NOTHING FURTHER

12:13:52 **State Attorney: Verharen, Art**
CROSS

12:13:55 **Add Ins: DRY, CRYSTAL**
RENTED MOTEL ROOM ON FRIDAY -WOULD HAVE BEEN THE
23RD -

12:14:20 **State Attorney: Verharen, Art**
NOTHING FURTHER

12:14:29 **Public Defender: Taylor, Anne**
NOTHING FURTHER

12:14:42 **Judge: Watson, Barry**
BEEN ON BENCH SINCE 8AM - NEED A BREAK

12:14:55 HOW MUCH TIME TO FINISH

12:15:00 **Public Defender: Taylor, Anne**
5 WITNESSES NEED TO CALL -

12:15:22 **State Attorney: Verharen, Art**
MAY HAVE REBUTTAL WITNESSES

12:15:30 **Judge: Watson, Barry**
HAVE A DOCKET THIS AFTERNOON - DOING PRELIM
HEARING ON TUESDAY 24TH - RESET

12:15:46 TO 8/24/10 @ 10:45 A.M. SUBP CONTINUED -

12:16:10 **Public Defender: Taylor, Anne**
LIKE TO HAVE HEARD ON MONDAY

12:17:14 **Judge: Watson, Barry**

CAN SEE IF SOMEONW AVAILABLE TO COVER MY MONDAY
WILL LET EVERYONE KNOW
BUT AT THIS POINT SET FOR TUESDAY 8/24/10

12:17:31

12:17:42 **Stop recording**

STATE OF IDAHO }ss
 COUNTY OF KOOTENAI
 FILED: 8-20-10
 AT 1:10 O'CLOCK P M
 CLERK, DISTRICT COURT
Mary K. O'Leary
 DEPUTY

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF
 THE STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI

JOSHUA MICHAEL MOSES,
 Defendant.

)
)
)
)
)
)
)

The matter having come before the Court on a motion to quash subpoena, based upon the arguments and authority presented the Court makes the following findings:

1. Idaho Code §19-1115 governs the granting of immunity by the prosecutor,
2. Idaho Code §19-1115 requires a hearing be conducted at which time a Judge must approve the grant of immunity,
3. In the present case the state has submitted a proposed grant of immunity of Joshua Branam,
4. There having been no hearing conducted pursuant to Idaho Code §19-1115, the proposed grant of immunity is not valid.

Therefore, based upon these findings, IT IS HEREBY ORDERED that the subpoena issued in the above captioned case, which requires Joshua Branam to testify, is hereby quashed.

DATED this 20 day of AUG, 2010.

CLERK'S CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 20 day of August, 2010, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

Kootenai County Prosecutor's Office
501 N. Government Way

Kootenai County Public Defender's Office
400 Northwest Blvd.
P.O. Box 9000
Coeur d'Alene, ID 83816-9000

U.S. MAIL
TELECOPY (FAX) to: (208) 446-1701

Christopher D. Schwartz
Schwartz Law Office, PC
206 Indiana Ave., Suite 012
Coeur d'Alene, ID 83814

U.S. MAIL
TELECOPY (FAX) to: (208) 930-4972

DANIEL J. ENGLISH
CLERK OF THE DISTRICT COURT

By: *James K. Allen*
DEPUTY (7155)

Court Minutes:

Session: WATSON082310A1
Session Date: 08/23/2010
Judge: Watson, Barry
Reporter:

Division: MAG
Session Time: 08:06

Courtroom: Courtroom1

Clerk(s): Albers, Nancy

Court interpreter(s):

Nancy K Albers

Case ID: 0002

Case number: CR2010-15159

Plaintiff:

Plaintiff Attorney:

Defendant: MOSES, JOSHUA MICHAEL

Pers. Attorney:

Co-Defendant(s):

State Attorney: Verharen, Art

Public Defender: Taylor, Anne

08/23/2010

08:35:51

Recording Started:

08:35:51

Case called.

08:35:56

Judge: Watson, Barry

CALLS CASE CONTINUED PRELIM HEAIRNG
PA/DA/DEFENDANT (IN CUSTODY) PRESENT

08:36:24 **State Attorney: Verharen, Art**
PRELIMINARY ISSUE-OFFER AN AMENDED COMPLAINT AND
ARGUES IN COURT'S DISCRETION
08:36:59 AS TO ALLOWING THE STATE TO REOPEN CASE AND
ALLOW US TO FILE AMENDED CRIMINAL
08:37:18 COMPLAINT - REVERSE OF NAMES REGARDING MR BRANAM
AND MR WARD - EXPLAINS
08:39:13 TWO CHANGES ARE MISTAKES CORRECTED AND THE THIRD
ONE IS TO CONFORM WITH THE
08:39:30 EVIDENCE
08:39:55 NO PREJUDICE HERE - EXPLAINS

08:41:07 **Judge: Watson, Barry**
THIS WOULD BE THE 2ND AMENDED COMPLAINT -

08:42:31 WE OBJECT TO AMENDED COMPLAINT - THE STATE IS
ASKING TO CHANGE THE CHARGE
-1ST PRELIM - THEN CONTINUED AND THEN LAST
FRIDAY - AND NOW 1/2 WAY THROUGH
08:42:49 OUR PART OF CASE AND NOW THE STATE WANTS TO
CHANGE THE CHARGE - THE CASE
08:43:22 SITED BY STATE ALLOWS THE STATE TO REOPEN TO
CALL ADDITIONAL WITNESSES NOT TO
08:43:44 CHANGE THE CHARGES - OBJECTION

08:44:02 **State Attorney: Verharen, Art**
IF ALLOWED TO REOPEN - JUST FILING AMENDED
COMPLAINT - NO NEW WITNESSES

08:44:31 **Judge: Watson, Barry**
REVIEW OF FILE - THE ORIGINAL COMPLAINT AND 1ST
AMENDED COMPLAINT HAVE GLARING
08:44:52 ERRORS IN THEM -SHOULD HAVE BEEN PROOF READ BY
SOMEONE IN THE PROSECUTOR'S
08:45:10 OFFICE - FOR THE COURT TO ALLOW FILING OF
AMENDED COMPLAINT WOULD BE MORE AS
08:45:35 TO AMEND TO CONFORM WITH EVIDENCE - WILL ALLOW
THE STATE TO REOPEN AND FILE
08:45:55 THE 2ND AMENDED COMPLAINT - OVERRULE OBJECTION
08:46:09 READS AMENDED CHARGE TO DEFENDANT

08:46:49 **State Attorney: Verharen, Art**
STATE RESTS

08:46:57 **Public Defender: Taylor, Anne**
NEED TO VISIT WITH CLIENT AND MS FISHER TO
DISCUSS CHANGES

08:47:17 **Judge: Watson, Barry**
RECESS

08:47:24 **Stop recording**
(On Recess)

08:49:52

08:50:05 **Public Defender: Taylor, Anne**
REQUEST THE COURT TO DO AN INTERLOCKTORY APPEAL
ON COURT'S RULING ON ALLOWING

08:50:27 STATE TO REOPEN TO FILE AMENDED COMPLAINT

08:50:52 **State Attorney: Verharen, Art**
APPEARS THAT COULD BE TAKEN UP IN DISTRICT COURT

08:51:03 **Judge: Watson, Barry**
I HAVEN'T SEEN THAT DONE HERE - NOT SURE ANY
AUTHORITY FOR IT

08:51:48 BELIEVE IS THIS GETS TO DISTRICT COURT YOU CAN
CHALLENGE DEFECTS IN

08:52:10 PRELIMINARY HEARING

08:52:26 DENY REQUEST FOR INTERLOCKATORY APPEAL

08:52:46 **Public Defender: Taylor, Anne**
NO FURTHER WITNESSES BASED ON THE COURT'S
FINDING - REQUEST BOND ADDRESSED

08:53:10 **State Attorney: Verharen, Art**
NO ARGUMENT

08:53:17 **Public Defender: Taylor, Anne**

ARGUES - NOT ENOUGH EVIDENCE

- 08:53:45 **Judge: Watson, Barry**
MAIN WITNESS HERE WAS MR WALTER WARD - REVIEWS
TESTIMONY
- 08:59:14 FINDING SUFFICIENT EVIDENCE TO ORDER DEFENDANT
BOUND OVER TO DISTRICT COURT
- 09:02:33 ON CHARGE OF GRAND THEFT BY EXTORTION
- 09:03:22 **Public Defender: Taylor, Anne**
BOND CURRENTLY SET AT \$100,000
- 09:04:00 **Other: BAILIFF**
OUR SHEETS INDICATE NO BOND

SPOKANE WA 99212

- 09:05:30 **State Attorney: Verharen, Art**
SET FOR BOND \$100,000 SERIOUS CHARGE - WE INTEND
TO ADD HABITAL OFFENDER
- 09:06:06 CHARGE- THIS COULD POTENTIALLY BE A LIFE OFFENSE
FOR DEFENDANT REQUEST HIGH
- 09:07:16 BOND
- 09:07:22 **Judge: Watson, Barry**
WITH THE SERIOUSNESS OF CHARGE AND PRIOR RECORD
AND MR MOSES IS OUT OF STATE
- 09:07:36 RESIDENT WILL SET BOND AT \$75,000 WITH
CONDITIONS
- 09:09:40 WILL ISSUE A NO CONTACT ORDER - WALTER WARD OR
JOSHUA M BRANAM -
- 09:11:28 **Defendant: MOSES, JOSHUA MICHAEL**
UNDERSTANDS
- 09:12:58 **Stop recording**





STATE OF IDAHO

VS.

JOSHUA MICHAEL MOSES

DOB: 5/20/1982

FELONY CASE # CR-2010-0015159

FILED 8-23-10 AT 9:12 AM.
CLERK OF THE DISTRICT COURT

BY Aimee K. Cole DEPUTY

ORDER

HOLDING - G THEFT BY EX
 DISMISSING CHARGE(S)

ct 1 + 3

CHARGE(S): COUNT 1 - ROBBERY - I18-6501 - DISMISSED
COUNT 2 - THEFT BY EXTORTION - I18-2403(2)(E) F
COUNT 3 - KIDNAPPING-FIRST DEGREE - I18-4501-I - DISMISSED

Amended to: _____

thereof,

COUNT 2 - G. THEFT BY EXTORTION ONLY

IT IS HEREBY ORDERED that the defendant is held to answer the above charge(s) and is bound over to District Court. The Prosecuting Attorney shall file an Information that includes all charges under this case number.

IT IS FURTHER ORDERED that the defendant be admitted to bail in the amount of \$ 75,000.00 and is committed to the custody of the Kootenai County Sheriff pending the giving of such bail. WITH COND'S

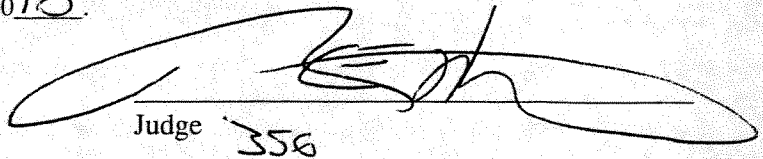
Defendant was advised of the charges and potential penalties and of defendant's rights, and having waived his/her constitutional rights to: a) trial by jury; b) remain silent; and c) confront witnesses, thereafter pled guilty to the charge(s) contained in the Information filed by the Prosecuting Attorney.

IT IS FURTHER ORDERED that not later than **14 days** after the date of this order, Defendant shall enter and file a written plea which states: the Defendant's true name, age, education and literacy levels; Defendant's rights to trial and counsel and any waiver of such rights; the offense or offenses of which Defendant is charged together with the minimum and maximum sentence for each charge; and Defendant's plea to each charge, the estimated time necessary for trial, if any; Defendant's current custody status; and Defendant's current physical residence address, mailing address and telephone number. A copy of the Defendant's written plea shall be delivered to the assigned judge's resident chambers. **Failure to timely file a written plea shall be a basis to revoke bond or release, and issue a bench warrant.**

IT IS FURTHER ORDERED that all pretrial motions in this case shall be filed not later than **42 days** after the date of this order unless ordered otherwise. All such pretrial motions in this matter shall be accompanied by a brief in support of the motion, and a notice of hearing for a date scheduled through the Court.

THIS CASE IS ASSIGNED TO JUDGE JOHN LUSTER

ENTERED this 23 day of Aug., 2010.


Judge 356

Copies sent 8/23/10 as follows:

Prosecutor VerHaren Defense Attorney Taylor Defendant IC JPCA Office at fax 446-1224
 Assigned District Judge: interoffice delivery faxed Jail (if in custody at fax 446-1407) KCSO Records fax 446-1307 (re: NCO)

Deputy Clerk Aimee K. Cole

DEPUTY

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI

STATE OF IDAHO Plaintiff v.	CASE NO. CR- <u>10-15159</u> ORDER SETTING BAIL or RELEASE ON OWN RECOGNIZANCE and
-----------------------------------	--

IT IS HEREBY ORDERED that bail be set in the amount of \$ 75,000.00
and the following are established as the conditions of release:

THE DEFENDANT SHALL:

- Commit no new criminal offenses greater than an infraction (a finding of probable cause on a subsequent offense is sufficient to revoke bail);
- Sign waiver of extradition and file with the Court;
- Make all court appearances timely;
- Do NOT consume alcohol or controlled substances;
- Promptly notify the Court and defense counsel of any change of address;
- Maintain regular contact with defense counsel;
- Do NOT drive, operate or be in physical control of a motor vehicle without a valid license and insurance;
- Obtain a Substance Abuse/Batterer's Evaluation from an approved evaluator by: _____
- Submit to urinalysis testing _____ times monthly through [] Global (address/phone below)
[] Other _____ and authorize results to be provided to
 Court, Prosecuting Attorney's office Public Defender/Defense Attorney _____
- Report to Pre-trial Services, 106 E. Dalton Ave., Coeur d'Alene, ID, 446-1985;
- Other: ABIDE BY N.C.O.

Defendant has acknowledged these conditions in open court, and is advised that a violation of any term may result in the defendant being returned to jail.

Copies sent 8/23/10 To:

- | | | |
|--|--------------|-----------------|
| <input checked="" type="checkbox"/> Prosecutor <u>KC</u> | [] in court | [] interoffice |
| <input checked="" type="checkbox"/> Defense Counsel | [] in court | [] interoffice |
| <input checked="" type="checkbox"/> Defendant | [] in court | [] interoffice |

- Jail FAX 446-1407 7170
 Pre-trial Services FAX: 446-1990

Global FAX: 664-6045, 2201 Govt. Way, Suite C, CD'A, ID, Ph: 664-6299

Other _____

Date: 8-23-10

Judge [Signature]

[Signature]
Deputy Clerk

074

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI

CLERK, DISTRICT COURT
Nancy K. Allers
DEPUTY

STATE OF IDAHO
Plaintiff

Case No. CR 10-15159

vs. JOSHUA MICHAEL MOSES
Defendant

Citation No. _____

DOB 5-20-82

Arresting Agency _____

NO CONTACT ORDER

Defendant, having been charged with violating Idaho Code Section(s):

- 18-918 Domestic Assault or Domestic Battery
- 18-7905 Stalking
- 18-901 Assault
- 18-903 Battery
- 39-6312 Violation of a Protection Order
- 18-905 Aggravated Assault
- 18-907 Aggravated Battery
- 18-923 Attempted Strangulation
- Other: G. THEFT BY EXTORTION

IF THIS ORDER REQUIRES YOU TO LEAVE A RESIDENCE SHARED WITH THE ALLEGED VICTIM, you must contact an appropriate law enforcement agency for an officer to accompany you while you remove any necessary personal belongings, including any tools required for your work. If disputed, the officer will make a preliminary determination as to what are necessary personal belongings; and in addition, may restrict or reschedule the time spent on the premises.

VIOLATION OF THIS ORDER IS A SEPARATE CRIME UNDER Idaho Code 18-920 for which bail will be set by a judge; it is subject to a penalty of up to one year in jail and up to a \$1,000 fine. THIS ORDER CAN ONLY BE MODIFIED BY A JUDGE AND WILL REMAIN IN EFFECT UNTIL 11:59 P.M. ON 8-23-11, OR UNTIL THIS CASE IS DISMISSED.

If a DOMESTIC VIOLENCE (CIVIL) PROTECTION ORDER IS IN PLACE PURSUANT TO IDAHO'S DOMESTIC VIOLENCE CRIME PREVENTION ACT (Title 39, Chapter 63 of the Idaho Code), the most restrictive of any conflicting provisions between the orders will control; however, entry or dismissal of another order shall not result in dismissal of this order.

NOTICE TO ALLEGED VICTIMS OF RIGHT TO A HEARING: As an alleged victim, you have the right to a hearing before a Judge on the continuation of this Order within a reasonable time of its issuance. To request that hearing, and TO AVOID GIVING UP THIS RIGHT you must contact the Clerk of Court, Kootenai County Courthouse, 324 W. Garden Ave., Coeur d'Alene, ID 83814. Phone Number 208-446-1170.

The Clerk of the Court shall give written notification to the records department of the sheriff's office in the county of issuance IMMEDIATELY and this order shall be entered into the Idaho Law Enforcement Telecommunications System.

8-23-10
Date of Order

JUDGE
[Signature]

I acknowledge having read and received this order.

8-23-10
Date of Service on Defendant

DEFENDANT
[Signature]
7169

Ordered / Served in open court

Faxed to: Sheriff's Office - Records Department (208) 446-1307 at 9:20 A.m [] Jail Booking (446-1407) for service on defendant prior to release from custody (KCSO must return defendant's signed copy to court and forward a copy signed by defendant to arresting agency)

Interoffice to: Prosecutor: KCPA Cd'A PA PFPA Rathdrum PA
 Public Defender

Mailed to: Victim _____

Defense Attorney _____

Nancy K Allers 8/23/10
Deputy Clerk Date

075

To: KCSO Jail at FAX (208) 446-1407

*For service on defendant, dissemination to KCSO Records, & the issuing agency-for entry into ILETS
(KCSO PLEASE forward!)*

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1 **NEW**

2 **Pages** (Including this page)

From District Court

DATE 8 / 23 / 10

Address Update (If Any):

(Party)

(Street)

(City, State, Zip)

ORIGINAL

STATE OF IDAHO
COUNTY OF KOOTENAI
FILED: ^{SS}

Anne Taylor, Deputy Public Defender
Office of the Kootenai County Public Defender
PO Box 9000
Coeur d'Alene, Idaho 83816
Phone: (208) 446-1700; Fax: (208) 446-1701
Bar Number: 5836

2010 AUG 24 PM 2:40
CLERK DISTRICT COURT
[Signature]
DEPUTY 196

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI**

JOSHUA MICHAEL MOSES,)
)
)
)
Defendant.)

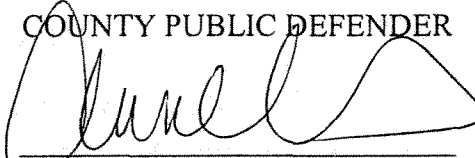
COMES NOW, the above named defendant, by and through his attorney Anne Taylor, Public Defender and hereby moves the Court for an Order directing the clerk of the court to prepare and complete the transcript of the Preliminary Hearing held in the above-entitled matter on August 20, 2010 and August 23, 2010, before the Honorable Barry Watson. This motion is made on the grounds that the transcript of said hearing is necessary for defense counsel in order to prepare a defense on behalf of the defendant in this matter.

Counsel for the defendant further moves the Court to order that the costs necessary for the preparation and completion of the transcript be paid at county expense and at no expense to the Defense. This Motion is made on the grounds that the defendant was determined to be indigent by the above-entitled Court on 7/30/2010, and further, that his representation is provided for by the Office of the Public Defender.

DATED this 23RD day of August, 2010

OFFICE OF THE KOOTENAI
COUNTY PUBLIC DEFENDER

BY:



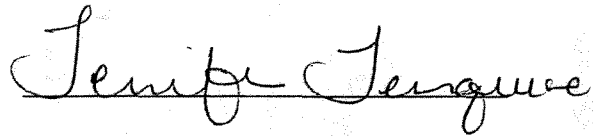
ANNE TAYLOR
DEPUTY PUBLIC DEFENDER

Transcript Department-Kootenai County Courthouse FAX 446-1187

Kootenai County Prosecutor FAX 446-1833

Via Fax

Interoffice Mail



ORIGINAL

Anne Taylor, Deputy Public Defender
Office of the Kootenai County Public Defender
PO Box 9000
Coeur d'Alene, Idaho 83816
Phone: (208) 446-1700; Fax: (208) 446-1701
Bar Number: 5836

STATE OF IDAHO
COUNTY OF KOOTENAI
FILED: 8/30/10
AT 3:02 O'CLOCK P.M.
CLERK, DISTRICT COURT
DEPUTY

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI**

JOSHUA MICHAEL MOSES,)
)
)
)
Defendant.)

The Court having before it the foregoing Motion and good cause appearing, now, therefore,
IT IS HEREBY ORDERED that the clerk of the court shall prepare and complete the
transcript of the Preliminary Hearing held in the above-entitled matter on August 20, 2010 and
August 23, 2010.

IT IS FURTHER ORDERED that the costs necessary for the preparation and completion of
said transcript shall be paid at county expense and at no expense to the defense.

IT IS FURTHER ORDERED that the transcript shall be complete and submitted to all parties
to this action no later than the 20th day of September, 2010.

DATED this 27th day of August, 2010.

John P. Luster
JOHN P. LUSTER
DISTRICT JUDGE

CLERK'S CERTIFICATE

I hereby certify that a true and correct copy of the foregoing was personally served by placing a copy of the same as indicated below on the 30 day of August, 2010, addressed to:

Transcript Department - Kootenai County Courthouse 446-1187

Kootenai County Public Defender 446-1701

ORIGINAL

196

STATE OF IDAHO
COUNTY OF KOOTENAI
FILED: ^{SS}

Anne Taylor, Deputy Public Defender
Office of the Kootenai County Public Defender
PO Box 9000
Coeur d'Alene, Idaho 83816
Phone: (208) 446-1700; Fax: (208) 446-1701
Bar Number: 5836

2010 SEP 15 PM 2:38

CLERK DISTRICT COURT
[Signature]
DEPUTY
u

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI**

JOSHUA MICHAEL MOSES,)
)
 Defendant.)
)
 _____)

COMES NOW, the above named defendant, by and through his attorney, Anne Taylor, Deputy Public Defender, and hereby moves the Court for an Order to Dismiss the charges in the above entitled matter.

This motion is made on the grounds that:

There is lack of substantial evidence on each element of the crimes charged.

The State has failed to file an Information.

Procedural defects occurred during the Preliminary Hearing that are in violation of Mr. Moses right to Due Process.

Additional information now exists that was unavailable at the time of the preliminary hearing and because of that information it is in the interest of justice that this matter be dismissed.

Counsel requests that this motion be set for hearing in order to present oral argument, evidence and/or testimony in support thereof. Requested time is thirty minutes.

DATED this 14 day of September, 2010.

OFFICE OF THE KOOTENAI
COUNTY PUBLIC DEFENDER

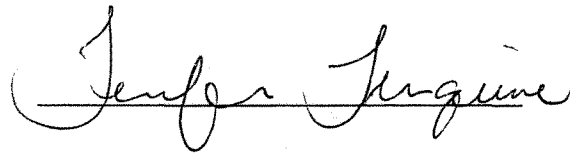
CERTIFICATE OF DELIVERY

I hereby certify that a true and correct copy of the foregoing was personally served by placing a copy of the same as indicated below on the 15 day of September, 2010, addressed to:

Kootenai County Prosecutor FAX 446-1833

Via Fax

Interoffice Mail



STATE OF IDAHO } ss
 COUNTY OF KOOTENAI }
 FILED: 11/10
 AT 11:45 O'CLOCK AM
 CLERK, DISTRICT COURT
 DEPUTY

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
 STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI

vs) ORDER EXTENDING TIME FOR
) TRANSCRIPT PREPARATION
 JOSHUA MICHAEL MOSES,)
)
 Defendant.)

GOOD CAUSE APPEARING,

IT IS HEREBY ORDERED, that due clerical error in
 assigning this transcript in it's entirety to the outside
 transcriber and the short timeframe given for completion, that the
 time within which the Transcriber shall have to prepare and lodge
 the transcript in the above entitled matter be, and is hereby
 extended until October 4, 2010

Dated this 16th day of September, 2010.

John Patrick Lunt
 District Judge

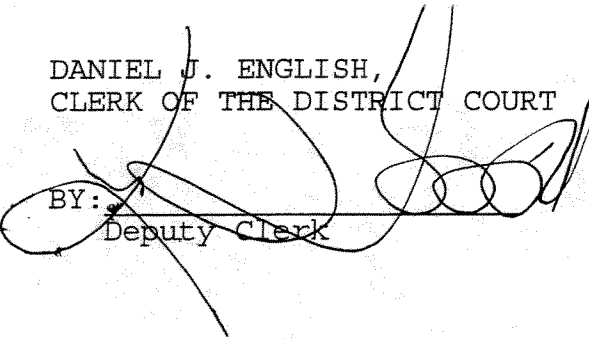
I hereby certify that on the 16 day of September, 2010, I sent copies of the foregoing Order to:

Barry McHugh
Prosecuting Attorney
Fax No. (208)446-1841

John Adams
Public Defender
Fax No. (208)446-1701

Transcription Dept.
Fax No. (208) 446-1187

DANIEL J. ENGLISH,
CLERK OF THE DISTRICT COURT

BY: 
Deputy Clerk

BARRY McHUGH
Prosecuting Attorney
501 Govt. Way/Box 9000
Coeur d'Alene, ID 83814
Telephone: (208) 446-1800
Fax: (208) 446-1833

ASSIGNED ATTORNEY:
MARTY RAAP

STATE OF IDAHO
COUNTY OF KOOTENAI } SS
FILED:

2010 SEP 21 PM 4:28

CLERK DISTRICT COURT

DEPUTY

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE

JOSHUA MICHAEL MOSES,
DOB: 05/20/1982
FBI Identification #2800048120-75
SSN: 536-90-3280

Defendant.

BARRY McHUGH, Prosecuting Attorney in and for the County of Kootenai, State of Idaho, who prosecutes in its behalf, comes now into Court, and does accuse **JOSHUA MICHAEL MOSES**, of the charge of: **GRAND THEFT BY EXTORTION**, Idaho Code §18-2403(2)(e), 18-2407(1)(a), **and** Idaho Code §19-2514, committed as follows:

That the Defendant, **JOSHUA MICHAEL MOSES**, on or about the 24th day of July, 2010, in the County of Kootenai, State of Idaho, did compel and induce Walter Ward to deliver \$2,500.00 to the Defendant by means of instilling in Walter Ward a fear that if the property was not so delivered, the Defendant would cause physical injury to some person in the future, to-wit: Joshua M. Branam and/or his family members, all of which is contrary to the form, force and effect of the

INFORMATION: Page 1

085

statute in such case made and provided and against the peace and dignity of the People of the State of Idaho.

PART II

The Prosecuting Attorney further informs the Court that the defendant, **JOSHUA MICHAEL MOSES**, while committing the offense of Grand Theft by Extortion as charged in the

on or about 9-20-04.

- 2) Taking a Motor Vehicle without Permission, County of Spokane, State of Washington, Judgment and Sentence on or about 9-11-09.

DATED this 20th day of September, 2010.

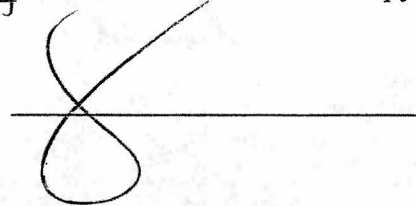
BARRY McHUGH
Prosecuting Attorney
In and For
Kootenai County, Idaho



MARTY RAAP
Deputy Prosecuting
Attorney

CERTIFICATE OF MAILING

I hereby certify that on the 20 day of September, 2010, a true and correct copy of the foregoing was caused to be sent interoffice mail to:
PUBLIC DEFENDERS OFFICE



Court Minutes:

Session: LUSTER101810P
Session Date: 10/18/2010
Judge: Luster, John
Reporter:

Division: DIST
Session Time: 14:49

Courtroom: Courtroom8

Clerk(s): Booth, Kathy

Court interpreter(s):

Case ID: 0002

Case number: CR2010-15159
Plaintiff: STATE OF IDAHO
Plaintiff Attorney:
Defendant: MOSES, JOSHUA ICHAEEL
Pers. Attorney:
Co-Defendant(s):
State Attorney:
Public Defender:

10/18/2010

15:05:16

Recording Started:

15:05:16

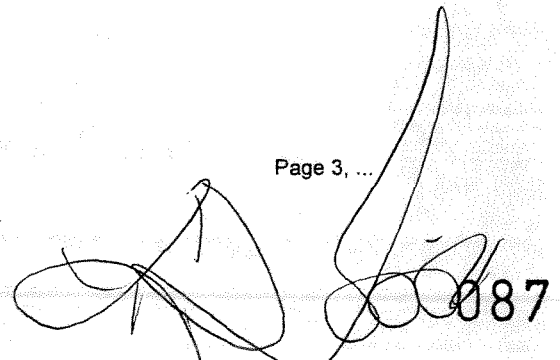
Case called

15:05:33

Judge: Luster, John
Calls case - PA Gardner, DA Taylor and defendant
present - in custody for

15:05:50

arraignment



Handwritten signatures and the number 087.

15:06:08 **Add Ins: GARDNER, DONNA**
Ready

15:06:14 **Add Ins: TAYLOR, ANNE**
Ready

15:06:18 **Judge: Luster, John**
Advises defendant of allegations in information

15:06:39 **Defendant: MOSES, JOSHUA ICHAE**
I have seen a copy of the information. The name
is correctly charged. I

15:06:58 have had sufficient time to talk to my attorney.

We waive reading of the information

15:08:02 **Defendant: MOSES, JOSHUA ICHAE**
I understand the allegations

15:08:08 **Add Ins: TAYLOR, ANNE**
NG PLEA

15:08:12 **Judge: Luster, John**
Accept NG plea - set trial

15:08:17 **Add Ins: GARDNER, DONNA**
3 day trial

15:08:22 **Add Ins: TAYLOR, ANNE**
3-4 days..

15:08:28 **Add Ins: GARDNER, DONNA**
No scheduling concerns that I'm aware of

15:08:37 **Add Ins: TAYLOR, ANNE**
We have motions set in Nov

15:08:45 **Judge: Luster, John**
Set trial - information was filed Oct 13.

15:09:03 Stop recording

Court Minutes:

Session: LUSTER110310A
Session Date: 11/03/2010
Judge: Luster, John
Reporter: MacManus, Anne

Division: DIST
Session Time: 08:29

Courtroom: Courtroom2

Clerk(s): Booth, Kathy

Court interpreter(s):

Case ID: 0010

Case number: CR2010-15159
Plaintiff: STATE OF IDAHO
Plaintiff Attorney:
Defendant: MOSES, JOSHUA MICHAEL
Pers. Attorney:
Co-Defendant(s):
State Attorney:
Public Defender:

11/03/2010

10:45:19

Recording Started:

10:45:19

Case called

10:45:27

Judge: Luster, John
Calls case - PA Raap, DA Taylor and defendant
present in custody on a motion

10:45:43

t dismiss

10:45:46 **Add Ins: TAYLOR, ANNE**
We'll proceed today - sort of. My memorandum
was late and PA hasn't even
10:46:05 seen a copy
10:46:14 We have a video in a related matter and we ask
the court to consider that and
10:46:37 continue and reset.
10:46:45 Robert Perry and Robert Brenam - explains
10:47:39 No objection to offer of the tape

10:49:20 **Add Ins: RAAP, MARTY**
and no objection to cont or proceeding on with
the bond hearing

10:53:52 Changing the allegatin that Mr. Ward is the
victim is part of our motion to
10:54:04 dismiss. Re: testimony from Perry PH? Ward
said that another person got on
10:55:20 the phone with a heavy spanish accent and later
said it was Mr. Moses. Mr.
10:55:33 Moses is not hispanic - he's native american.
The witness who said he had a
10:55:56 slight accept is mistaken He promises to appear
- ask that the court ROR or
10:56:42 set \$5,000 bond. He'll sign a waiver of
extradition - he lives in Spokane.
10:56:57 He has community support.

10:57:02 **Add Ins: RAAP, MARTY**
We reduce the bond reduction - not here to get
into a great detail of the
10:57:17 case. Either way you still have the problem of
defendant extorting the
10:57:40 money from Mr. Ward - if Brenam was lying then
or now. Judge Watson set bail
10:58:07 at \$75,000 - the only thing different now makes
it worse - we've added a
10:58:30 habitual offender enhancement. Re: criminal
history. We ask the court to

10:59:30 not disturb the bond - we believe it is appropriate.

10:59:45 **Add Ins: TAYLOR, ANNE**
The enhancement is not the only thing that's happened - Perry charges

11:00:02 dismissed and Branum was granted immunity.

11:00:10 **Judge: Luster, John**
Rule 46 motion for bond reduction - comments - the stakes defendant is facing

11:02:01 is substantial. His contact with this area is limited. He has family and

11:02:17 some friends appearing in the courtroom. The

11:04:14 was there to get the money. These all seem like factual questions to be

11:05:11 determined. I don't know if the testimony of Branum in the case would

11:05:27 have resulted differently. I have a challenge on the PH determination but

11:05:59 there is a big difference between that and a conviction on jury. I'm not

11:06:41 prepared to ROR - REDUCE BOND TO \$50,000. Re: challenge - I would hope

11:08:30 briefing can be done in time. REST TO NOV 22, 2010 3:00 PM

11:08:55 **Stop recording**
(On Recess)

ORIGINAL

Anne Taylor, Deputy Public Defender
Office of the Kootenai County Public Defender
PO Box 9000
Coeur d'Alene, Idaho 83816
Phone: (208) 446-1700; Fax: (208) 446-1701
Bar Number: 5836

STATE OF IDAHO
COUNTY OF KOOTENAI
FILED: 5/5/10
AT 1:50 O'CLOCK P.M.
CLERK, DISTRICT COURT
DEPUTY

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI**

JOSHUA MICHAEL MOSES,

Defendant.

MOTION TO DISMISS

COMES NOW, the above named defendant by and through his attorney, Anne Taylor, Deputy Public Defender, and hereby submits the following Memorandum in support of his Motion to Dismiss previously filed with this Court.

I. ISSUE PRESENTED

A. Whether the Magistrate erred in finding sufficient probable cause to hold Mr. Moses following the preliminary hearing.

B. Whether the Magistrate erred in allowing the State to amend the criminal complaint to include a new victim.

II. COURSE OF PROCEEDINGS

Mr. Joshua Moses was charged by criminal complaint of Grand Theft by Extortion and Kidnapping in the First Degree. The case was set for Preliminary hearing. The case came before Judge Harden on August 12, 2010. During the course of the hearing the state called Joshua Branham, the named victim in the criminal complaint. Joshua Branham claimed the 5th [redacted] [redacted] to testify. The state then sought to grant immunity and compel his

The matter then was called before Judge Barry Watson on August 20, 2010. The state called Walter Ward to testify. He testified that he had received a phone call from his brother in law, Joshua Branham, and that in response to the phone call he gathered money together and went to Wal Mart in Post Falls. Once there he was contacted by Mr. Joshua Moses, whom he had never met before. After some conversation Mr. Moses got in the back seat of Mr. Ward's vehicle and directed Mr. Ward to a location to meet with Mr. Branham. Mr. Ward gave money to Mr. Moses. Mr. Ward was armed but during the contact with Mr. Moses he did not see a weapon and was never threatened by Mr. Moses. Mr. Ward stated that during the phone conversation with Mr. Branham another person got on the phone. He identified it as the voice of the person he met at Wal Mart. He identified the voice as having a Spanish accent.

Mr. Ward met with Mr. Branham. He took Mr. Branham from the area he first met with him and dropped him off in Post Falls. Mr. Ward contacted the police hours later.

The next witness the state called was Joshua Branham. The state again offered immunity. Counsel for Mr. Branham again objected to the procedure as being improper. The court did not grant immunity. The state chose to proceed only on the charge of Grand Theft by Extortion and dismissing the count of Kidnapping in the First Degree. The state presented its case and closed.

Mr. Moses began his case. After a number defense witnesses testified the Court

on a different day. During the course of the first day of hearing the state, time it was allowed. The state amended the complaint to allege Grand theft by extortion and named a different victim. Defense objected. Mr. Moses was not prepared to meet an allegation naming a different victim. Over Mr. Moses objection the court allowed the state to amend the charge. The defense rested as the witnesses prepared to testify were in response to the original charges.

Mr. Moses moves the Court for an order dismissing the charges.

III. STANDARD OF REVIEW

“If from the evidence the magistrate determines that a public offense has been committed and that there is probable or sufficient cause to believe that the defendant committed such offense, the magistrate shall forthwith hold the defendant to answer in the district court.” I.C.R. 5.1(b). “The finding of probable cause shall be based upon substantial evidence upon every material element of the offense charged....” *Id.* “A defendant once held to answer to a criminal

charge ... may challenge the sufficiency of evidence educed at the preliminary examination by a motion to dismiss.... Such motion to dismiss shall be heard by a district judge.” I.C. § 19-815A. Issues that involve purely a question of law are reviewed *de novo*. *State v. Korsen*, 138 Idaho 706, 711 (2003); *State v. Cobb*, 132 Idaho 195, 197 (1998); *State v. Hansen*, 125 Idaho 927, 930 (1994).

IV. LEGAL BASIS FOR REQUESTED RELIEF

public offense has been committed, and that there is probable or sufficient cause to believe the defendant guilty thereof.” I.C. § 19-815. Under this section of the statute, the minimum standard of proof is “such evidence as would lead a reasonable person to believe the accused party has probably or likely committed the offense charged.” *Carey v. State*, 91 Idaho 706, 709 (1967) quoting *Martinez v. State*, 90 Idaho 229, 232 (1965). Therefore, while ‘(t)he state is not required to produce all of its evidence at a preliminary examination, it must produce “enough (evidence) to satisfy the committing magistrate that a crime has been committed and that there is reasonable or probable cause to believe the accused committed it.” *Id.*

B. Whether the Magistrate erred in allowing the State to amend the criminal complaint to include a new victim.

In a criminal case, procedural due process does not guarantee errorless trials, but it does

at least ensure that criminal trials shall be fundamentally fair. *State v. Gilman*, 105 Idaho 891, 893 (Ct.App.1983). Fairness requires that a criminal defendant be tried only upon charges of which he or she has notice. *Id.* Additionally, Article I, Section 8 of the Idaho Constitution provides that “no person shall be held to answer for any felony or criminal offense of any grade, unless on presentment or indictment of a grand jury or on information of the public prosecutor, after a commitment by a magistrate.” An accused is therefore denied his or her constitutional

McKeehan, 91 Idaho 808, 817 (1967).

In the case at hand, after the State rested its case, and after witnesses for the defense had begun to testify, the State moved to amend the criminal complaint (Tr., p. 50, ll. 14-15; p. 85, ll. 11-13). The State contended that the case of *State v. Stockwell*, 98 Idaho 797 (1977), stood for the proposition that it is “within the Magistrate’s discretion to allow the prosecution to reopen a preliminary hearing.” (Tr., p. 85, ll. 14-16). The purpose of requesting that the State be allowed to reopen its portion of the preliminary hearing was to permit the State to file an amended criminal complaint. (Tr., p. 86, ll. 2-5). The amended criminal complaint effectively changed the name of the victim from Josh Branam to Walter Ward.

The State argued that the amendment was “consistent with the evidence the Court heard, basically that it was Walter Ward that had the fear that if the property were not delivered the defendant would cause injury to uh, Joshua Branam rather than uh, by the fear installed in Mr.

Branam that if the property wasn't delivered." (Tr., p. 87 ll. 12-18). Counsel for the defendant objected and argued allowing the complaint to be amended after witnesses had been called by the defense and after the State had rested would be highly prejudicial to the defendant. (Tr., p. 89, ll. 11-13; p. 90, ll. 1-4). The Magistrate allowed the State to reopen the preliminary hearing for the purpose of filing the "second amended complaint" which changed the name of the alleged victim. (Tr., p. 91, ll. 16-21). Counsel for the defense declined to call additional witnesses explaining it

offense is charged and if substantial rights of the defendant are not prejudiced." The rule prohibits an amendment after the state has rested its case on the subject matter of the amendment. *State v. Smith*, 116 Idaho 553, 559 (Ct.App.1989). Thus, the state may not alter a charge, or add new charges, after the close of evidence. *Id.*

Therefore, not only must the State seek to have the complaint amended before the prosecution rests but the amendment will only be permissible if the substantial rights of the defendant are not prejudiced. In this case, the State seeks to circumvent the requirements of I.C.R. 7 (e) and Constitutional Due Process by simply arguing that the State is free to request, pursuant to *Stockwell*, the Magistrate to reopen the State's case at a preliminary hearing for the purpose of amending the criminal complaint. In *State v. Stockwell*, 98 Idaho 797, 802 (1977), the Court found that the Magistrate in that case erred in not allowing the State to reopen the preliminary hearing to call additional witnesses. The *Stockwell* Court specifically held that the

defendant's right to a fair preliminary hearing in that case would not have been compromised had the prosecutor been allowed to reopen the preliminary hearing to call additional witnesses. *Id.*

In the present case, the State's amendment of the complaint to include a different victim, after resting its case and after witnesses for the defense had been called to testify deprived Mr. Moses of a fair preliminary hearing. Mr. Moses' substantial rights were prejudiced in that he had no opportunity to present an effective defense in light of the State's amended

statutory precursor of I.C.R. 7 was designed to provide, and also denied to him the due process of law guaranteed by art. 1, § 13 of the Idaho Constitution.

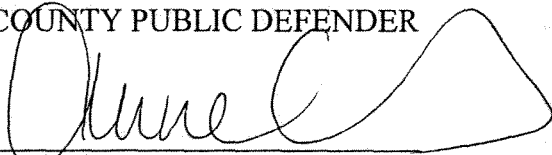
V. CONCLUSION

For the above argued reasons, Mr. Moses respectfully requests that this Court dismiss the charges in the above entitled case.

DATED this 2nd day of November, 2010.

OFFICE OF THE KOOTENAI
COUNTY PUBLIC DEFENDER

BY:



ANNE TAYLOR
DEPUTY PUBLIC DEFENDER

I hereby certify that a true and correct copy of the foregoing was personally served by placing a copy of the same as indicated below on the 2nd day of November, 2010, addressed to:

Kootenai County Prosecutor ~~FAX 446-1833~~

Hand delivered

~~___~~ Via Fax

~~___~~ Interooffice Mail

Lisa Beale

Court Minutes:

Session: LUSTER112210P
Session Date: 11/22/2010
Judge: Luster, John
Reporter: MacManus, Anne

Division: DIST
Session Time: 13:21

Courtroom: Courtroom1

Clerk(s): Booth, Kathy

Court interpreter(s):

Case ID: 0003

Case number: CR2010-15159
Plaintiff: STATE OF IDAHO
Plaintiff Attorney:
Defendant: MOSES, JOSHUA MICHAEL
Pers. Attorney:
Co-Defendant(s):
State Attorney:
Public Defender:

11/22/2010

15:23:15

Recording Started:

15:23:15

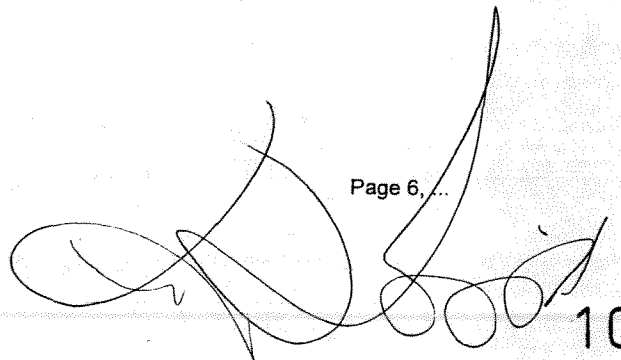
Case called

15:23:26

Judge: Luster, John
Calls case - PA Raap, DA Taylor and defendant
present - in custody - for

15:23:44

continuation on defendants motion to dismiss



15:24:19 **Add Ins: RAAP, MARTY**
After I reviewed DA's submission I am prepared
to just argue orally.

15:24:38 **Judge: Luster, John**
That's fine with me.

15:25:02 **Add Ins: TAYLOR, ANNE**
We ask the court to dismiss for lack of PC and
the other part is to ask the

15:25:17 court to either dismiss or remand for a
different PH because the state was

15:25:28 allowed to amend the charging document after the
state had rested and the

15:26:55 charged with other charges
and he asserted his th amendment rights and
didn't testify at PH. Re:

15:27:11 brother-in-law testimony. Moses was not armed
and made no threats to

15:28:04 brother-in-law and simply directed him to where
Joshua was. Re: Brennam

15:28:50 testimony at Perry PH There is insufficient
evidence to hold the defendant.

15:29:23 The original charging document listed Joshua
Brennam as the victim. We

15:29:43 prepared our case to go to PH on that theory of
the case. We had multiple

15:29:54 witnesses who would testify that Moses was not
with Brennam and that there

15:30:06 were times when Moses wasn't there but Brannam
was there with other friends.

15:30:23 When the state rested it was with the complaint
that Joshua was the victim.

15:30:56 The second day of PH the state was allowed to
amend the document changing the

15:31:14 victim. Had we been prepared under that theory
we would have brought his

15:31:31 father in and witnesses to discuss Moses
heritage - he is not hispanic but is

15:31:54 native american. The complaint was allowed to
be amended when the state
15:32:07 brought in the Stockwell case. re: Stockwell.
Our case is quite different.
15:32:24 That is unfairly prejudicial to Moses and we
could have been prepared to meet
15:32:50 that - it is a violation of his due process. A
PH is an important hearing.
15:33:24 We feel the case should be dismissed and if not
then the remedy would be to
15:33:36 remand for further findings at the magistrate
level.
15:33:49 **Add Ins: RAAP, MARTY**

15:35:42 in the PC finding. If there
was an error to allow amendment of the complaint
is an invalid argument -
15:35:57 Rule 7. The amendment doesn't change the crime
but changes the victim from
15:36:14 Brannam to Mr. Ward. This reflects the way the
evidence came out at PH. re:
15:37:18 Stockwell - aprt of a PH is exactly for this
purpose - to flush out the facts
15:37:52 and adapt to that for trial. I don't see
utility in not granting the
15:38:36 amendment. I note that Judge Watson has the
authority to bind over on what
15:39:01 ever charge he finds at the PH even if the state
has not moved to amend the
15:39:14 complaint. I'm not aware of any case law that
says that is an inappropriate
15:39:31 practice. They are aware of the issue today. I
ask that you deny the motion
15:41:04 and prepare for trial.
15:41:11 **Add Ins: TAYLOR, ANNE**
Brannam's testimony under oath is that Moses had
nothing to do with the phone
15:41:25 call or to get the money. The only thing he had

15:41:38 to do with it was to go get
te money from Mr. Ward. Brannam testified that
15:41:57 he alone wanted to get the
money from Mr. Ward.

15:42:48 **Judge: Luster, John**
Didn't witness Crystal testify defendant has a
spanish accent?

15:43:12 **Add Ins: TAYLOR, ANNE**
Yes, it was my mistake - Moses goes by J and
Brannam goes by Josh. We do
15:43:45 dispute that there is sufficient evidence to
bind defendant over for trial.

15:45:02 I've reviewed this unusual case. The state's
charging from the beginning was
15:45:28 unusual. Defendant is entitled to establish PC
to establish answering a
15:45:45 criminal charge. Moses is in custody - there is
no reason to slight the
15:45:56 fundamental requirement of due process behind
establishing PC. Defendant is
entitled to a PC determination and at PH he's
entitled to challenge this.

15:46:35 Mr. Moses had a right to challenge the named
victim in the complaint and that
15:46:46 was thwarted. The court hearing PC can bind
over what ever probable cause is
15:47:23 established at PH. When I look at the
transcript submitted to Judge Watson
15:47:45 the analysis of the magistrate was sufficient to
bind defendant over on the
15:47:57 offense that became the charged offense after
the evidence was submitted.

15:48:09 Judge Watson was not overwhelmed by the
evidence. Judge Watson had enough
15:48:53 evidence to justify PC determination. Brannon
asserted his 5th amendment
15:49:14 right and the state proceeded to secure

immunity - Judge Harden was unable
15:49:29 to complete that and it was transferred to Judge
Watson. It wasn't until
15:49:46 after that Judge Mitchell granted immunity for
Brannam in the Perry case.
15:50:58 Brannam is a convicted felon - lying to the
police. I do think there are
15:51:18 some sufficient due process considerations in
place that go to the
15:51:28 fundamental entitlements to Moses to have a PH.
My position is that if you
15:51:51 just look at the raw testimony there was enough
evidence but if you take into
15:52:15 consideration the other issues this is a case

15:54:03 order.

15:54:08 **Add Ins: TAYLOR, ANNE**
We had been invited to readdress bond after this
hearing.

15:54:23 **Judge: Luster, John**
You can present that but I don't know that I'm
persuaded to address that. It
15:54:39 might be best to bring this before the
Magistrate court at the PH

15:55:55 **Add Ins: TAYLOR, ANNE**
We'll take it up at the Magistrate level

15:56:07 **Stop recording**

ORIGINAL

Anne Taylor, Deputy Public Defender
The Law Office of the Public Defender of Kootenai County
PO Box 9000
Coeur d'Alene, Idaho 83816
Phone: (208) 446-1700; Fax: (208) 446-1701
Bar Number: 5836

196
STATE OF IDAHO
COUNTY OF KOOTENAI
FILED: SS

2010 NOV 23 PM 2:38

CLERK DISTRICT COURT


DEPUTY

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI**

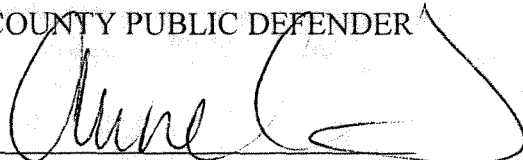
Defendant.)
)
)

COMES NOW, the above named defendant, by and through his attorney, Anne Taylor, Deputy Public Defender, and hereby moves the Court for an Order releasing to Anne Taylor of the Public Defender Office the Defendant's exhibit "attached to the Motion to Dismiss" (audio of Joshua Branham's testimony in Robert Perry's Preliminary Hearing) admitted into evidence at the Motion to Dismiss hearing before Judge Luster. This request is made on the grounds that the exhibit(s) will be necessary for the defense in this matter.

DATED this 23 day of November, 2010.

OFFICE OF THE KOOTENAI
COUNTY PUBLIC DEFENDER

BY:

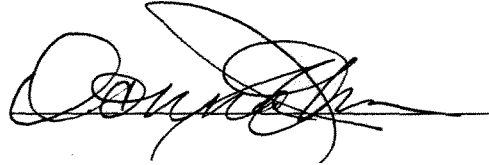

ANNE TAYLOR
DEPUTY PUBLIC DEFENDER

**MOTION TO RELEASE
DEFENDANTS EXHIBITS**

CERTIFICATE OF DELIVERY

I hereby certify that a true and correct copy of the foregoing was personally served by placing a copy of the same by method indicated on the 23 day of November, 2010, addressed to:

Kootenai County Prosecutor FAX 446-1833

A handwritten signature in black ink, appearing to be "C. Smith", written over a horizontal line.

ORIGINAL

Anne Taylor, Deputy Public Defender
The Law Office of the Public Defender of Kootenai County
PO Box 9000
Coeur d'Alene, Idaho 83816
Phone: (208) 446-1700; Fax: (208) 446-1701
Bar Number: 5836

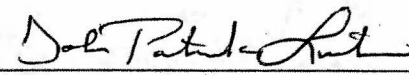
STATE OF IDAHO
COUNTY OF KOOTENAI
FILED: 11/30/10
A. O'CLOCK M.
CLERK, DISTRICT COURT
DEPUTY

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI**

JOSHUA MICHAEL MOSES,)
)
)
 Defendant.)
)
 _____)

The Court having before it the Defendant's motion, and good cause appearing now, therefore;
IT IS HEREBY ORDERED that the above entitled Defendant's Exhibit(s) entered at the
Motion to Dismiss hearing, and the same hereby are, released to Anne Taylor at the Public Defender
office.

DATED this 30th day of November, 2010.



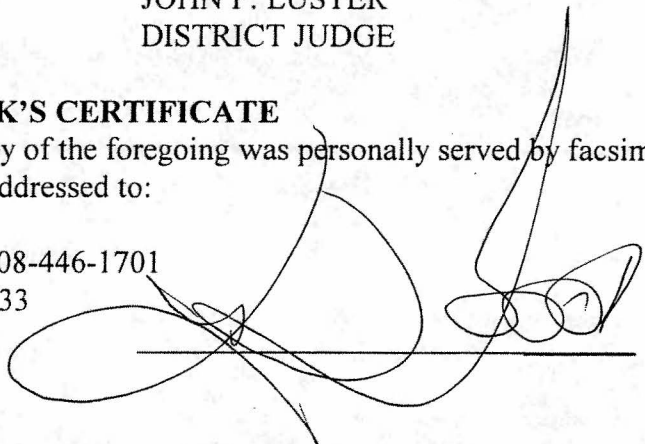
JOHN P. LUSTER
DISTRICT JUDGE

CLERK'S CERTIFICATE

I hereby certify that a true and correct copy of the foregoing was personally served by facsimile
on the 30 day of November, 2010 addressed to:

Kootenai County Public Defender FAX 208-446-1701
Kootenai County Prosecutor FAX 446-1833

#532
#533 - Daily 446-1766



ORIGINAL

Anne Taylor, Deputy Public Defender
The Law Office of the Public Defender of Kootenai County
PO Box 9000
Coeur d'Alene, Idaho 83816
Phone: (208) 446-1700; Fax: (208) 446-1701
Bar Number: 5836

STATE OF IDAHO
COUNTY OF KOOTENAI
FILED: 11/23/10
AT 9:48 10 O'CLOCK AM
CLERK, DISTRICT COURT
DEPUTY

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI**

STATE OF IDAHO

CLERK

COURT

Defendant.)
)

This matter having come before the Court on the Defendant's Motion to Dismiss and good cause appearing, now, therefore

IT IS HEREBY ORDERED that the Motion to Dismiss is denied.

DATED this 30 day of November, 2010.

John P. Luster
JOHN P. LUSTER
DISTRICT JUDGE

ORDER FILED

CLERK'S CERTIFICATE

I hereby certify that a true and correct copy of the foregoing was personally served by placing a copy of the same as indicated below on the 30 day of November, 2010, addressed to:

Kootenai County Public Defender FAX 446-1701
~~Kootenai County Jail FAX 446-1407~~
Kootenai County Prosecutor FAX 446-1833

[Handwritten signature and scribbles]
\$530

ORDER DENYING MOTION TO DISMISS

Page 1

DISTRICT COURT

ORIGINAL

Anne Taylor, Deputy Public Defender
The Law Office of the Public Defender of Kootenai County
PO Box 9000
Coeur d'Alene, Idaho 83816
Phone: (208) 446-1700; Fax: (208) 446-1701
Bar Number: 5836

STATE OF IDAHO } ss
COUNTY OF KOOTENAI }
FILED 11/23/10 10:30 AM
AT COEUR D'ALENE
CLERK, DISTRICT COURT
DEPUTY

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI**

STATE OF IDAHO)

Defendant.)
()
()


This matter having come before the Court on November 22, 2010 on Defendant's Motion to Dismiss, the Court denies the Motion to Dismiss, but finds irregularities in the previous preliminary hearing and to protect Mr. Moses' right to Due Process under both the United States and Idaho Constitutions the case is hereby remanded to the Magistrate's division for a new Preliminary Hearing.

The Court further finds that Joshua Branham, having previously been granted Immunity in State of Idaho v. Robert Perry, and Immunity remaining in effect, may be brought to testify by either the State or Mr. Moses.

ORDER TO REMAND

Page 1

ORDERED this 30th day of November, 2010.



JOHN P. LUSTER
DISTRICT JUDGE

CLERK'S CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was personally served by placing a copy

CHIEF CLERK
DISTRICT COURT

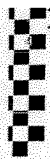
CLERK OF COURT
DISTRICT COURT
148
46-

CHIEF CLERK
DISTRICT COURT

CLERK OF COURT
DISTRICT COURT

ORDER TO REMAND

Page 2



STATE OF IDAHO
COUNTY OF KOOTENAI } SS
FILED:

2010 DEC -7 PM 2:37

CLERK DISTRICT COURT
Russell
DEPL

CHRISTOPHER D. SCHWARTZ
SCHWARTZ LAW OFFICE, PC
Conflict Public Defender
206 Indiana Ave., Suite 102
Coeur d'Alene, ID 83814
Telephone: (208) 930-4970
Facsimile: (208) 930-4972
ISBA# 7060

THE STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI

STATE OF IDAHO,

Plaintiff,

vs.

JOSHUA MICHAEL MOSES,

Defendant.

) Case No. CR 10-15159
)
) **OBJECTION TO ORDER TO**
) **REMAND**
)
)
)
)
)
)

COMES NOW, JOSHUA M. BRANAM, by and through his attorney of record, CHRISTOPHER D. SCHWARTZ, of the law firm Schwartz Law Office, PC, Conflict Public Defender, and hereby objects to the Order to Remand filed on November 30, 2010, in the above entitled action, in so much as it includes orders that affect the constitutional rights of Mr. Branam.

The order, a copy of which is attached to this motion, states, "The Court further finds that Joshua Branam, having previously been granted Immunity in State of Idaho v.

Robert Perry, and Immunity remaining in effect, may be brought to testify by either the State or Mr. Moses." Mr. Branam objects to this order based on the following grounds:

1. Neither Mr. Branam, nor his attorney, were notified of any hearing on the matter. This is a due process violation that prevented Mr. Branam from raising objections or any reasonable opportunity to be heard.

10-15700, State v. Robert Perry. It does not provide Mr. Branam Immunity in the above captioned case. Therefore, this Court has ordered Mr. Branam to testify, without an opportunity to be heard, and without an actual Immunity agreement.

3. The facts and charges of the above entitled actions are different than those in State v. Robert Perry, CR 10-15700. The rationale under which Judge Mitchell found compelling Mr. Branam's testimony is therefore not controlling in this case. Therefore, Mr. Branam is entitled to a hearing to place his objections on the record.

Counsel requests that a hearing be set for this motion to be heard. Requested time is 30 minutes.

DATED this 7 day of December, 2010.

SCHWARTZ LAW OFFICE, PC

By



Christopher D. Schwartz
Attorney for Joshua Branam

Kootenai County Prosecutor's Office
501 N. Government Way
P.O. Box 9000
Coeur d' Alene, ID 83816-9000

[] Facsimile to: 208-446-1833

Anne Taylor (Attorney for Joshua Moses)
Kootenai County Public Defender's Office
Coeur d' Alene, ID 83816-9000

[] Facsimile to: 208-446-1701

Honorable Judge Luster

[] Facsimile to: 208-446-1107

Honorable Judge Caldwell

[] Facsimile to: 208-446-1102


Mindy R. Dehaag

ORIGINAL

Anne Taylor, Deputy Public Defender
The Law Office of the Public Defender of Kootenai County
PO Box 9000
Coeur d'Alene, Idaho 83816
Phone: (208) 446-1700; Fax: (208) 446-1701
Bar Number: 5836

RECEIVED BY
AT Mxd. AMF
NOV 23 2010
STATE OF IDAHO
COUNTY OF KOOTENAI
FILED
CLOCK
CLERK, DISTRICT COURT
DEPUTY

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI**

STATE OF IDAHO

Defendant.

This matter having come before the Court on November 22, 2010 on Defendant's Motion to Dismiss, the Court denies the Motion to Dismiss, but finds irregularities in the previous preliminary hearing and to protect Mr. Moses' right to Due Process under both the United States and Idaho Constitutions the case is hereby remanded to the Magistrate's division for a new Preliminary Hearing.

The Court further finds that Joshua Branham, having previously been granted Immunity in State of Idaho v. Robert Perry, and Immunity remaining in effect, may be brought to testify by either the State or Mr. Moses.

ORDER TO REMAND

Page 1

Received Nov-24-10 08:43am

From-4461702

To- JUDGE LUSTER

Page 01

11/24/2010 WED 7:37 FAX 446 2 KC PUBLIC DEFENDER Luster

002/002

ORDERED this 30th day of November, 2010.

John P. Luster
JOHN P. LUSTER
DISTRICT JUDGE

CLERK'S CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was personally served by placing a copy

CLERK OF COURT
DISTRICT JUDGE

ORDER TO REMAND

Page 2

Received Nov-24-10 08:49am

From 4461702

To JUDGE LUSTER

Page 02

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI

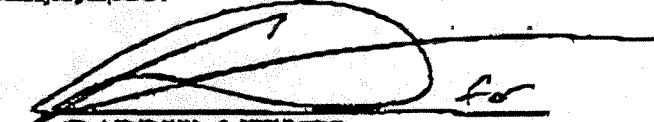
STATE OF IDAHO,

Case No. CR-F10-15700

COMES NOW, BARRY McHUGH, Prosecuting Attorney, in and for Kootenai County, Idaho, and hereby agrees that Joshua Matthew Branam's testimony at the Preliminary Hearing in the above-captioned matter will not be used against Joshua Matthew Branam in any matter in a criminal case, except that he may nevertheless be prosecuted or subjected to penalty for perjury, false swearing, or contempt committed in testifying at the aforementioned preliminary hearing.

The undersigned regards this grant of immunity as in the public interest.

DATED this 10th day of September, 2010.

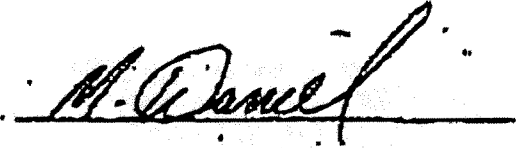

BARRY McHUGH
Prosecuting Attorney

CERTIFICATE OF MAILING

I hereby certify that on the 10 day of September, 2010, a true and correct copy of the foregoing was faxed to:

PUBLIC DEFENDER'S OFFICER

CHRIST SCHWARIZ
ATTORNEY AT LAW



GRANT OF IMMUNITY

STATE OF IDAHO }
COUNTY OF KOOTENAI } SS
FILED:

2010 DEC -7 PM 4:41

CLERK DISTRICT COURT

DEPUTY

qad
CHRISTOPHER D. SCHWARTZ
SCHWARTZ LAW OFFICE, PC
Conflict Public Defender
206 Indiana Ave., Suite 102
Coeur d'Alene, ID 83814
Telephone: (208) 930-4970
Facsimile: (208) 930-4972
ISBA# 7060

THE STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI

STATE OF IDAHO,

Plaintiff,

vs.

JOSHUA MICHAEL MOSES,

Defendant.

) Case No. CR 10-15159
)
) **MOTION TO QUASH SUBPOENA**
)
)
)
)
)
)
)
)
)

COMES NOW, JOSHUA M. BRANAM, by and through his attorney of record, CHRISTOPHER D. SCHWARTZ, of the law firm Schwartz Law Office, PC, Conflict Public Defender, and hereby moves this Court for an Order quashing the subpoena which was issued on December 3, 2010, that requires Joshua Branam to appear at a preliminary hearing scheduled for December 10, 2010 at the hour of 1:30 p.m., in the above mentioned case. This motion is brought pursuant to Idaho Criminal rule 17 and Idaho Civil rule 45(d).

This request is made on the grounds that Mr. Branam has repeatedly asserted his 5th Amendment right to remain silent. On two prior occasions the Honorable Judges Watson and Harden have quashed subpoenas in regards to this incident. Subsequently Judge Mitchell ruled that Mr. Branam was required to testify in CR 10-15700, State v.

By



Christopher D. Schwartz
Attorney for Joshua Branam

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 7 day of December, 2010, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

Kootenai County Prosecutor's Office
501 N. Government Way
P.O. Box 9000
Coeur d' Alene, ID 83816-9000

Facsimile to: 208-446-1833

Anne Taylor (Attorney for Joshua Moses)
Kootenai County Public Defender's Office
Coeur d' Alene, ID 83816-9000

Facsimile to: 208-446-1701

Mindy R. Derhaag
Mindy R. Derhaag

Description	CR 2010-15159 Moses, Joshua Michael 20101209 Judge Peterson Cristine Stokes Preliminary Hearing Status Conference		
Date	12/9/2010	Location	1K-COURTROOM12
Time	Speaker	Note	
08:45:43 AM	Judge Peterson	Calls case	
08:45:51 AM	Def	pres in custody	

08:46:49 AM	Ms Taylor	courts file has order releasing exhibits to me, which is audio recording releasing prior testimony
08:47:27 AM	Ms Laird	this is Mr Verharen's case and 1 witness
08:47:48 AM	Ms Taylor	up to 5 witnesses - exhibit admitted to Judge Luster in a motion hearing I would like to have back and also info filed prior to order remanding it - procedurally not sure if state has filed complaint - original complaint was amended after state had rested - I would like a new complaint to know exactly what I'm going to hearing on
08:49:09 AM	Judge Peterson	Original unamended complaint is operative document
08:49:30 AM	Ms Laird	I don't have anything in the file, that would be up to Mr Verharen
08:49:53 AM	Ms Taylor	audio recording of Robert Perry's Preliminary Hearing -
08:50:08 AM	Judge Peterson	my filed does not contain a sealed portion - I do have in the file what appears to be an audio recording before Judge Marano on Robert Perry - court will surrender to Defense at this time

Produced by FTR Gold™
www.fortherecord.com

ORIGINAL

Anne Taylor, Deputy Public Defender
Office of the Kootenai County Public Defender
PO Box 9000
Coeur d'Alene, Idaho 83816
Phone: (208) 446-1700; Fax: (208) 446-1701
Bar Number: 5836

STATE OF IDAHO }
COUNTY OF KOOTENAI } SS
FILED: 12-9-10
AT 9:30 O'CLOCK A
CLERK, DISTRICT COURT
[Signature]
DEPUT

g

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI**

JOSHUA MICHAEL MOSES,)
)
Defendant.)
)
)

**NOTICE OF INTENT TO INTRODUCE
FORMER TESTIMONY**

COMES NOW, the above named defendant by and through his attorney, Anne Taylor, Deputy Public Defender, and hereby submits the following memorandum in support of his Notice of Intent to Introduce Former Testimony previously filed with this Court.

I. ARGUMENT

Preliminary hearing testimony is admissible if two provisions are satisfied: Idaho Code § 9-336, which specifically addresses the use of preliminary hearing testimony, and Idaho Rule of Evidence 804(b)(1), which creates a hearsay exception for former testimony. These two provisions have similar requirements. I.C. § 9-336 mandates that, before admitting the preliminary hearing testimony, the court must find:

1. [That the testimony is] [o]ffered as evidence of a material fact and that the testimony is more probative on the point for which it is offered than any other evidence which the proponent can procure through reasonable efforts; and
2. That the witness is, after diligent and good faith attempts to locate, unavailable for the hearing; and
3. That at the preliminary hearing, the party against whom the admission of the testimony is

declarant is unavailable to testify at trial and “if the party against whom the testimony is now offered ... had an opportunity and similar motive to develop the testimony by direct, cross, or redirect examination.” If the requirements of I.R.E. 804(b)(1) and I.C. § 9-336 are satisfied, the use of testimony from the preliminary hearing will be allowed. *State v. Perry*, 144 Idaho 266, 269 (Ct. App. 2007); *State v. Ricks*, 122 Idaho 856, 861 (Ct.App.1992).

A. Unavailability of Witness

Under both the statute and rule, the first prerequisite for admission of preliminary hearing testimony at a later trial is a showing that the witness is unavailable. This unavailability must be established by the proponent of the testimony. *State v. Button*, 134 Idaho 864, 868 (Ct.App.2000). Rule 804(a)(1) directs that a witness may be deemed unavailable if the witness “is exempted by ruling of the court on the ground of privilege from testifying concerning the subject matter of the declarant’s statement.”

In the case at hand, Judge ... signed an Order December .. 2010, quashing the subpoena of Joshua Branham directing him to testify at the preliminary hearing set in the above entitled matter December 10, 2010. Please see attached Order.

B. Opportunity to Develop Testimony

In *State v. Ricks*, the Court determined that the following factors would influence a party's motive to develop testimony as contemplated in I.C. § 9-336 and I.R.E. 804(b)(1):

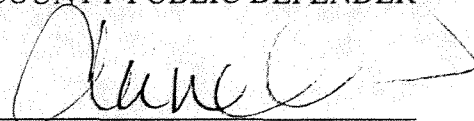
Court examined the rationale of *Feldman* and its holding that the deposition from a civil action was not admissible in a criminal trial under Fed.R.Evid. 804(b)(1) (which is identical to I.R.E. 804(b)(1)) because the defendants implemented "opposite strategies in the civil and criminal trial." *Id.*, citing *Feldman* 761 F2d at 386. The *Ricks* Court also reasoned that an "important factor to be considered in determining whether a similar motive for cross-examination existed at the preliminary hearing is whether there was an identity of issues between the preliminary hearing and the trial." *Id.* at 864.

In the case at hand, the State had the similar motive and opportunity to develop the testimony of Joshua Branham in Robert Perry's preliminary hearing as it would in Mr. Moses' preliminary hearing. Robert Perry was a co-defendant of Mr. Joshua Moses. Both were originally charged with the same crime and the preliminary hearing in both matters originally contemplated proving the same elements and calling the same witnesses.

DATED this 8th day of December, 2010.

OFFICE OF THE KOOTENAI
COUNTY PUBLIC DEFENDER

BY:



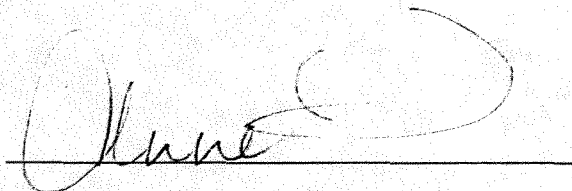
ANNE TAYLOR
DEPUTY PUBLIC DEFENDER

copy of the same as indicated below on the 8th day of December, 2010, addressed to:

Kootenai County Prosecutor FAX 446-1833

Via Fax

Interoffice Mail



Description	CR2010-15159 Moses, Joshua Michael 20101210 Preliminary Hearing Judge Robert Caldwell Clerk Peggy Reynolds		
Date	12/10/2010	Location	1K-COURTROOM8
Time	Speaker	Note	
<u>02:09:36 PM</u>	Judge Caldwell	Calls Case - DF present in custody - will begin w/initial mtns and then decide which case will go first	
<u>02:09:50 PM</u>	Anne Taylor - DA		

Peggy Reynolds

	Chris Schwartz	immunity for Mr Branham - magistrate can rule how immunity is used against Mr Branham - want crt to rule that Mr Branham has immunity before he testifies
<u>02:12:24 PM</u>	Judge	have been handed immunity paperwork re: Mr Moses and also an order in Mr. Perry's case - in that matter Mr Branham was ordered to testify - re: concurrent juris
<u>02:13:33 PM</u>	PA	re: order of remand signed by J. Luster and by my reading of order it is granting immunity against Mr Branham
<u>02:14:05 PM</u>	DA	don't have much to say but I want his testimony today
<u>02:14:24 PM</u>	Chris Schwartz	wanted to make sure that immunity wld extend to this hearing today
<u>02:14:44 PM</u>	Judge	reads from the order by J. Luster - this grant of immunity signed 8/11/10 appears to grant immunity to Mr Branahm
<u>02:15:24 PM</u>	PA	agree
<u>02:15:30 PM</u>	Chris Schwartz	my client does not wish to testify and req crt order him to
<u>02:15:55 PM</u>	Judge	require him to testify today
<u>02:16:09 PM</u>	Chris Schwartz	w/draw my mtn to quash
<u>02:16:30 PM</u>	PA	don't think it will take 2 hrs
<u>02:16:41 PM</u>	DA	believe we can have hearing done in about an hr
<u>02:17:09 PM</u>	Judge	re: prior testimony
<u>02:17:19 PM</u>	DA	filed that mtn as matter of caution when mtn to quash was filed
<u>02:17:57 PM</u>		will take up this prelim first - re: operative complaint - 8/23/10

	Judge	2nd amended complaint - is that operative doc that state will be working off of
<u>02:19:29 PM</u>	PA	that is true
<u>02:19:37 PM</u>	DA	re: amended complaint
<u>02:19:54 PM</u>	Judge	can read that complaint
<u>02:20:12 PM</u>	DA	wld like that
<u>02:20:16 PM</u>	Judge	reads 2nd amended complaint
<u>02:21:13 PM</u>	PA	ready to proceed - move to exclude witnesses
<u>02:21:25 PM</u>	Judge	grant mtn

<u>02:24:33 PM</u>	Clerk	swears W2
<u>02:25:01 PM</u>	W2 Walter Ward	I live in CDA and married - Shaylynn Marie Ward - know Joshua Branham - he is my wife's brother - have known him about 14 months - I saw him often - he is currently in jail - I am able to recognize his voice - 7/24/10 I took phone call about 7 am - I did not recognize number - I had conversation for about 5 minutes - I s/w 2 diff people
<u>02:27:12 PM</u>	DA	obj
<u>02:27:16 PM</u>	Judge	overruled
<u>02:27:27 PM</u>	W2	eventually I recognized the voice on the phone - Joshua Branham - we had brief conversation - then I s/w someone else - it was brief conversation - 2nd person had hispanic accent - then I s/w Joshua again and that was another very brief conversation - after I s/w the individuals i got dressed and got in car and went to bank and tried to pull out \$2500 - I visited approx 5 banks - I obtained \$2500 and I w/drew it from my wife's acct - after I got the money I went to the PF Walmart - After I went to bank I picked up a friend of mine - I got to Walmart about 9 am - KC, ID - I parked in parking lot and I talked to my friends - I went into Walmart then went back to my car - I was approached by a male - I went to Walmart based on conversation I had that morning - also got the money based on that conversation - the male approached me on foot and walked up to me slowly but deliberately - when he came closer we shook hands and made small talke- identifies DF at def table - I had my friend get out of car and DF got in and I gave him the \$2500 - I showed him the money and asked where Johsua Branham and he said he wld show me where he was - I had my friend get back in car and we

		went to small house off of Seltice - Df told me to drive there - DF asked me questions about military career - I told him I had killed 11 people - Df told me he had just moved up here - we discussed Mr Branham - he said he was f_____n retarded - Df said Joshua owed his uncle \$2500 for drugs - implied he wld be killed
<u>02:37:09 PM</u>	DA	obj
<u>02:37:12 PM</u>	Judge	sustained
<u>02:37:20 PM</u>	W2	it took us less than 20 min to get to the house from Walmart - the man I met at Walmart appeared to be the same man I s/w on phone that morning

<u>02:38:46 PM</u>	W2	
<u>02:38:53 PM</u>	DA	obj
<u>02:38:57 PM</u>	Judge	sustained
<u>02:39:02 PM</u>	W2	when I s/w 2nd person on phone - he said he wasn't fuckin around and this was no Hollywood bullshit and that he was owed \$2500 - I was told not to call police - then I s/w Joshua again - I heard background noises while on the phone
<u>02:40:35 PM</u>	DA	obj - foundation
<u>02:40:40 PM</u>	Judge	sustained
<u>02:40:45 PM</u>	W2	I took DF back to Walmart and he said Joshua was at a park and I told him to take me there - he said he wld - DF took me to park and then gave me instructions to trailer park - we went there and then Joshua Branham came out to us - he wasn't wearing his glasses, cut above his eye, face swollen - he had water bottle and garbage bag - he got in vehicle and
<u>02:43:57 PM</u>	DA	obj - non responsive
<u>02:44:03 PM</u>	Judge	sustained
<u>02:44:12 PM</u>	W2	we left and went to 17th street - Joshua got out of vehicle and had a brief conversation w/a man - I told Joshua if he needed any help he cld call me - I drove to where my wife works
<u>02:45:24 PM</u>	DA	obj
<u>02:45:26 PM</u>	Judge	sustained
<u>02:45:32 PM</u>	W2	I eventually went to police after I left Joshua - I did not go to police earlier b/c I had been instructed not to -

<u>02:46:10 PM</u>	DA	CX
<u>02:46:17 PM</u>	W2	when I got the phone call I was home alone - stopped at Spokane St - I did not stop anywhere between Walmart and Spokane St - I waited 2-3 min before I saw Joshua - re: other bldgs - I don't recall when I picked up my friend Phillip - went to one bank to get money - waited in Walmart parking lot for about 1/2 hr before I met up w/DF - don't remember when I called police - store was not overly busy -
<u>02:49:24 PM</u>	PA	obj
<u>02:49:26 PM</u>	Judge	overruled
<u>02:49:34 PM</u>	W2	there were probably 100 people at Walmart -

<u>02:50:21 PM</u>	W2	I took the green car b/c my wife took the other vehicle - I don't remember if I told DF I wld be in green car -
<u>02:50:49 PM</u>	PA	obj
<u>02:50:51 PM</u>	Judge	sustained
<u>02:50:56 PM</u>	W2	Joshua identified himself to me - he did tell me who he was - conversation w/him did not last very long - total phone call was 2-3 minutes - I don't recall saying at last hearing that phone call was 10 minutes - I don't remember - \$2500 was in my hand when I gave it to DF - there were other people - I told DF to get in my vehicle - DF got in car and I went around to drivers side and got in and I handed him the money - DF did not count the money he just put money in his pocket - Phillip was outside car until I gave DF the money
<u>02:55:46 PM</u>	PA	obj
<u>02:55:48 PM</u>	Judge	sustained
<u>02:55:53 PM</u>	W2	I asked where Joshua Branham was and he agreed to take me to him - I took DF to get his scooter and we loaded it into the back of my car - it was near the store
<u>02:57:03 PM</u>	PA	obj - asked and answered
<u>02:57:11 PM</u>	Judge	sustained
<u>02:57:16 PM</u>	W2	DF did not threaten me to get the money and did not display a weapon and he did take me to Josh Branham -
<u>02:58:07 PM</u>	PA	obj
<u>02:58:10 PM</u>	DA	argues

<u>02:58:26 PM</u>	Judge	overruled
<u>02:58:36 PM</u>	W2	Josh Branham said he had to be taken to 17th st - he s/w man in a pu truck - I was told different vehicle was following us by Josh - Df was friendly - I did not see Josh get in vehicle - I took Poleline Rd - PF Police Dept on that rd and I bypassed
<u>03:00:23 PM</u>	PA	RE DX
<u>03:00:29 PM</u>	W2	i was told not to go to police
<u>03:00:32 PM</u>	DA	obj
<u>03:00:35 PM</u>	Judge	overruled
<u>03:01:28 PM</u>	DA	no questions

<u>03:10:13 PM</u>	Clerk	swears w3
<u>03:10:45 PM</u>	W3 - Joshua Branam	Joshua Branam - I know DF - I met him in July thru a friend of a friend - 7/24 - I got arrested during that time - I got arrested for poss meth, para, obstruction and absconding - I ran b/c I thought I had warr for my arrest - during that time I made a call to my brother in law - he married my sister - I was at a friends place in PF when I made phone call - near evening - I called him about 4 times during the time I was absconding - last time I called him before I went to jail was that day
<u>03:13:49 PM</u>	PA	obj
<u>03:13:51 PM</u>	J	overruled
<u>03:13:57 PM</u>	W3	I was at friends house - Randy or Tony and his wife Rosy - I called brother in law 4 times that day - DF was at that house and other people were at the house that I didn't know - there was quite a few people there - I was in separate room in garage when I made phone calls - it was like a rec room and other people were there - I told my brother in law that I was going to be hurt and had been kidnapped - I needed the money and I said I wld pay him back and he has been paid back - I had DF pick up the money for me -
<u>03:17:15 PM</u>	PA	obj
<u>03:17:17 PM</u>	Judge	sustained
<u>03:17:25 PM</u>	W3	I saw my brother in law later that day - DF got package
<u>03:17:46 PM</u>	PA	obj
<u>03:17:48 PM</u>	Judge	overruled

<u>03:17:57 PM</u>	W3	my brother in law picked me up
<u>03:18:11 PM</u>	PA	obj
<u>03:18:14 PM</u>	Judge	sustained
<u>03:18:20 PM</u>	W3	I had a bank acct problem from the teamsters for about \$14,000 and cld not access it until it cleared
<u>03:19:14 PM</u>	PA	obj
<u>03:19:15 PM</u>	Judge	sustained
<u>03:19:21 PM</u>	W3	I had told my brother in law about my money - I did not go home w/my brother in law because if my sister knew I had a warrant she wld probably turn me int

<u>03:20:53 PM</u>	Judge	overruled
<u>03:21:00 PM</u>	W3	money was for drugs and food and other things - I don't know if DF slept where I was - he is friend of mine - he is not a better friend than Walter -
<u>03:21:34 PM</u>	DA	obj
<u>03:21:50 PM</u>	Judge	He can answer question
<u>03:22:02 PM</u>	W3	I called Walter 4 times that day - all calls were during the day - I only s/w him once the other times I got the machine -
<u>03:22:43 PM</u>	DA	obj
<u>03:22:46 PM</u>	Judge	overruled
<u>03:22:54 PM</u>	W3	this happened about 2 wks before I was arrested - I was pretty high during that time on meth - I was using meth when I talked to Walter - I was smoking and injecting it - the drug might affect my memory - I wasn't worried about looking at calendar - when I s/w Walter it went it on for 10-15 min - there were other people in room when I was on phone - I told Walter I needed \$2500 to pay someone else - I said I needed it or I wld get hurt - I think I came up w/plan night before - I put desperation in my voice - I scared Walter and that was reason I called him and he agreed to get the money- I did not hand the phone over to DF - its possible I forgot if Df s/w Walter - I don't think DF has hispanic accent - I was high on meth - after I scared Walter I s/w DF and he went to Walmart to get the money - I told Df that Walter wld have a pkg for me- I'm pretty sure I didn't tell him it was money - DF was wearing cammo pants - DF dropped off pkg to me and I waited until he left before I opened it and counted it - it was all there - DF told me Walter was waiting for me and met up w/Walter - I

		had still played part and I had some injuries to my face - I got in arguement w/DF a cpl of days before - I had black eye and cut lip - I may have had a cut above my eye - I got injuries from fight w/Df - I paid back Walter as soon as my acct was unfrozen - I've been in custody since July - my mother has access to my acct and she gave Walter the money - I'm not scared of DF - I told police that DF and Mr. Perry kidnapped me and that Df beat me up - I told police same story I told Walter - I was not still high on meth when I s/w police - understand I can't be prosecuted for this today - pretty sure I'm going to prison for PV
03:33:22 PM	DA	obj
03:33:25 PM	Judge	OVERRULED

		of DF for this offense - he may go to prison
03:34:34 PM	DA	RE DX
03:34:42 PM	W3	I made 4 phone calls
03:35:26 PM	PA	obj
03:35:28 PM	Judge	overruled
03:35:51 PM	PA	obj
03:35:55 PM	Judge	Sustained
03:36:05 PM	W3	did not plan on getting money from Walter - I did not tell DF what I was planning - when I had fight w/DF it was over a girl - I don't see DF frequently at jail
03:37:01 PM	PA	obj
03:37:05 PM	Judge	overruled
03:37:12 PM	W3	I lied to police
03:37:17 PM	PA	RE CX
03:37:23 PM	W3	I have s/w DF 3-4 times at the jail - have used sign language also
03:39:20 PM	Clerk	swears W4
03:39:45 PM	W4 - Randy Ziady	I am recently out of the hospital - 7/24/10 I had a group of people at my house during that time - DF is friend and he was at my house - I know Joshua Branam - I have a pool room and I invited people over to play games
03:41:10 PM	PA	obj
03:41:13 PM	Judge	overruled

03:41:21 PM	W4	DF and Joshua left the house separately - I saw Joshua at Bob's later - DF was not w/him - I have seen DF drive pink scooter - it belongs to my grand daughter
03:42:18 PM	PA	CX
03:42:23 PM	W4	I have not been convicted of felony - I don't know if Mr Branam was using meth or not - that was first time he was at my house - no one is allowed meth at my house - Mr Branam wld be in violation of house rules if he used meth - I can't say what everyone was doing while at my house - there was no fight at my house - I wld have asked them to leave if they fought - I tell everyone my house rules - DF and Josh came to my house together

03:45:41 PM	Clerk	swears vvd
03:46:20 PM	W5 - Larry Earth	DF is my step son - I raised him since he was 6 or 7 - he is 75 percent nat am and he does not s/w hispanic acct
03:47:21 PM	PA	CX
03:47:27 PM	W5	I love him and know he has been in trouble before
03:47:38 PM	DA	obj
03:47:39 PM	Judge	Sustained
03:48:05 PM	DA	nothing further
03:48:10 PM	PA	nothing further - argues
03:50:17 PM	DA	argues
03:51:52 PM	Judge	crt has to consider testimony and decide credibility - do not give a lot of weight to Mr. Branam's testimony and find Mr Ward was credible - find State has met its burden - bind over DC - J. Mitchell

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STATE OF IDAHO

VS.

JOSHUA MICHAEL MOSES

DOB: 5/20/1982

FILED 12/10/10 AT 3:54 PM.
CLERK OF THE DISTRICT COURT

BY Peggy Arnold DEPUTY

FELONY CASE # CR-2010-0015159

ORDER

HOLDING
 DISMISSING CHARGE(S)

CHARGE(S): Grand
COUNT 1 - THEFT BY EXTORTION - I18-2403(2)(E) F
COUNT 2 - THEFT BY EXTORTION - I18-2403(2)(E) F
COUNT 3 - KIDNAPPING - FIRST DEGREE - I18-4501-1

Rc # 267

Amended to: _____

thereof,

IT IS HEREBY ORDERED that the defendant is held to answer the above charge(s) and is bound over to District Court. The Prosecuting Attorney shall file an Information that includes all charges under this case number.

IT IS FURTHER ORDERED that the defendant be admitted to bail in the amount of \$ _____ and is committed to the custody of the Kootenai County Sheriff pending the giving of such bail.

Defendant was advised of the charges and potential penalties and of defendant's rights, and having waived his/her constitutional rights to: a) trial by jury; b) remain silent; and c) confront witnesses, thereafter pled guilty to the charge(s) contained in the Information filed by the Prosecuting Attorney.

IT IS FURTHER ORDERED that not later than **14 days** after the date of this order, Defendant shall enter and file a written plea which states: the Defendant's true name, age, education and literacy levels; Defendant's rights to trial and counsel and any waiver of such rights; the offense or offenses of which Defendant is charged together with the minimum and maximum sentence for each charge; and Defendant's plea to each charge, the estimated time necessary for trial, if any; Defendant's current custody status; and Defendant's current physical residence address, mailing address and telephone number. **A copy of the Defendant's written plea shall be delivered to the assigned judge's resident chambers. Failure to timely file a written plea shall be a basis to revoke bond or release, and issue a bench warrant.**

IT IS FURTHER ORDERED that all pretrial motions in this case shall be filed not later than **42 days** after the date of this order unless ordered otherwise. All such pretrial motions in this matter shall be accompanied by a brief in support of the motion, and a notice of hearing for a date scheduled through the Court.

THIS CASE IS ASSIGNED TO JUDGE Mitchell

ENTERED this 10 day of December, 20 10.

[Signature]
Judge #267

Copies sent 12/10/10 as follows:

Prosecutor Verdun Defense Attorney Taylor Defendant _____ TCA Office at fax 446-1224 12/14/10
 Assigned District Judge: interoffice delivery faxed _____ Jail (if in custody at fax 446-1407) 12/14/10
 KCSO Records fax 446-1307 (re: NCO) # 134
 Pre-Trial Services fax 446-1990

Deputy Clerk Peggy Arnold

ORIGINAL

BARRY McHUGH
Prosecuting Attorney
501 Govt. Way/Box 9000
Coeur d'Alene, ID 83814
Telephone: (208) 446-1800
Fax: (208) 446-1833

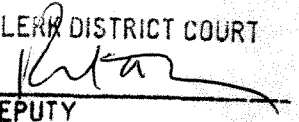
ASSIGNED ATTORNEY
ARTHUR VERHAREN

STATE OF IDAHO
COUNTY OF KOOTENAI
FILED: SS

2010 DEC 14 PM 3:20

CLERK DISTRICT COURT

DEPUTY



STATE OF IDAHO,
Plaintiff,

vs.

JOSHUA MICHAEL MOSES,
DOB: 05/20/1982
FBI Identification #2800048120-75
SSN: 536-90-3280

Defendant.

Case No. CR-F10-15159

INFORMATION

BARRY McHUGH, Prosecuting Attorney in and for the County of Kootenai, State of Idaho, who prosecutes in its behalf, comes now into Court, and does accuse **JOSHUA MICHAEL MOSES**, of the charge of: **GRAND THEFT BY EXTORTION**, Idaho Code §18-2403(2)(e), 18-2407(1)(a), §19-2514, committed as follows:

That the Defendant, **JOSHUA MICHAEL MOSES**, on or about the 24th day of July, 2010,

INFORMATION: Page 1

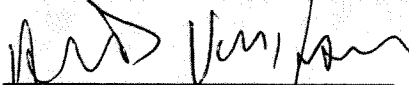
in the County of Kootenai, State of Idaho, did compel and induce Walter Ward to deliver \$2,500.00 to the Defendant by means of instilling in Walter Ward a fear that if the property was not so delivered, the Defendant would cause physical injury to some person in the future, to-wit: Joshua M. Branam and/or his family members, all of which is contrary to the form, force and effect of the statute in such case made and provided and against the peace and dignity of the People of the State of Idaho.

Information, had previously been convicted of at least two (2) prior separate felony offenses, and, pursuant to I.C. §19-2514, is properly considered a persistent violator. Defendant's previous convictions consist of the following felony offenses:

- 1) Assault of a Child, County of Spokane, State of Washington, Judgment and Sentence on or about 9-20-04.
- 2) Taking a Motor Vehicle without Permission, County of Spokane, State of Washington, Judgment and Sentence on or about 9-11-09.

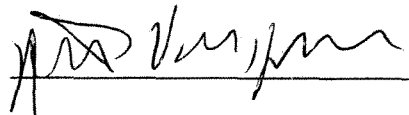
DATED this 14 day of December, 2010.

BARRY McHUGH
Prosecuting Attorney
In and For Kootenai County, Idaho


ARTHUR VERHAREN
Deputy Prosecuting Attorney

CERTIFICATE OF MAILING

I hereby certify that on the 14 day of September, 2010, a true and correct copy of the foregoing was caused to be sent interoffice mail to:
PUBLIC DEFENDERS OFFICE, FAXED

A handwritten signature in black ink, appearing to read "A. D. [unclear]", is written over a horizontal line.

Anne Taylor, Deputy Public Defender
The Law Office of the Public Defender of Kootenai County
PO Box 9000
Coeur d'Alene, Idaho 83816
Phone: (208) 446-1700; Fax: (208) 446-1701
Bar Number: 5836

STATE OF IDAHO
COUNTY OF KOOTENAI
FILED: 1/16

2010 DEC 28 PM 1:07

CLERK DISTRICT COURT
[Signature]
DEPUTY

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI**

JOSHUA MICHAEL MOSES,)
)
)
 Defendant.)
)
 _____)

COMES NOW, the above named defendant, by and through his attorney, Anne Taylor, Deputy Public Defender, and hereby moves the Court for its Order reducing the bond in this matter.

This motion is made pursuant to the 8th and 14th amendments of the U.S. Constitution; Article I, §§ 6 and 13 of the Idaho Constitution; and I.C.R., R.46.

This motion is made on the grounds that defendant has ties to the community and is not a flight risk, and the bond as set violates the defendant's rights to due process and to be free from excessive bond and cruel and unusual punishment as guaranteed by the U.S. and Idaho Constitutions.

Counsel requests that this motion be set for hearing in order to present oral argument, evidence and/or testimony in support thereof. Requested time is ten minutes.

DATED this 28 day of December, 2010.

THE LAW OFFICE OF THE PUBLIC
DEFENDER OF KOOTENAI COUNTY

BY:



ANNE TAYLOR
DEPUTY PUBLIC DEFENDER

Kootenai County Prosecutor FAX 446-1833

Via Fax

Interoffice Mail



Anne Taylor, Deputy Public Defender
Office of the Kootenai County Public Defender
PO Box 9000
Coeur d'Alene, Idaho 83816
Phone: (208) 446-1700; Fax: (208) 446-1701
Bar Number: 5836

STATE OF IDAHO
COUNTY OF KOOTENAI
FILED: 116

2010 DEC 28 PM 1:07

CLERK DISTRICT COURT
[Signature]
DEPUTY

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI**

JOSHUA MICHAEL MOSES,)
)
)
Defendant.)

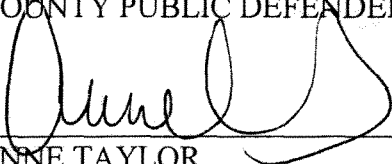
COMES NOW, the above named defendant, by and through his attorney Anne Taylor, Public Defender and hereby moves the Court for an Order directing the clerk of the court to prepare and complete the transcript of the Preliminary Hearing held in the above-entitled matter on December 10, 2010, before the Honorable Robert Caldwell. This motion is made on the grounds that the transcript of said hearing is necessary for defense counsel in order to prepare a defense on behalf of the defendant in this matter.

Counsel for the defendant further moves the Court to order that the costs necessary for the preparation and completion of the transcript be paid at county expense and at no expense to the Defense. This Motion is made on the grounds that the defendant was determined to be indigent by the above-entitled Court on 7/30/2010, and further, that his representation is provided for by the Office of the Public Defender.

DATED this 28 day of December, 2010

OFFICE OF THE KOOTENAI
COUNTY PUBLIC DEFENDER

BY:



ANNE TAYLOR
DEPUTY PUBLIC DEFENDER

Transcript Department-Kootenai County Courthouse FAX 446-1187
Kootenai County Prosecutor FAX 446-1833

Via Fax

Interoffice Mail



*** FAX MULTI TX REPORT ***

JOB NO. 2917
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KCPA-general
Transcript Dept.

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI**

STATE OF IDAHO,)
)
 Plaintiff,)
)
 V.)
)
 JOSHUA MICHAEL MOSES,)
)
)
)
 Defendant.)

**CASE NUMBER CR-10-001519
Fel**

**MOTION FOR PREPARATION OF
PRELIMINARY HEARING TRANSCRIPT**

COMES NOW, the above named defendant, by and through his attorney Anne Taylor, Public Defender and hereby moves the Court for an Order directing the clerk of the court to prepare and complete the transcript of the Preliminary Hearing held in the above-entitled matter on December 10, 2010, before the Honorable Robert Caldwell. This motion is made on the grounds that the transcript of said hearing is necessary for defense counsel in order to prepare a defense on behalf of the defendant in this matter.

Counsel for the defendant further moves the Court to order that the costs necessary for the preparation and completion of the transcript be paid at county expense and at no expense to the Defense. This Motion is made on the grounds that the defendant was determined to be indigent by the above-entitled Court on 7/30/2010, and further, that his representation is provided for by the

Anne Taylor, Deputy Public Defender
Office of the Kootenai County Public Defender
PO Box 9000
Coeur d'Alene, Idaho 83816
Phone: (208) 446-1700; Fax: (208) 446-1701
Bar Number: 5836

STATE OF IDAHO }
COUNTY OF KOOTENAI } ss
FILED: 12/30/10
AT 11:05 O'CLOCK A.M.
Clerk, District Court
Paula Clausen
DEPUTY

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI

JOSHUA MICHAEL MOSES,)
)
)
)
 Defendant.)

The Court having before it the foregoing Motion and good cause appearing, now, therefore,
IT IS HEREBY ORDERED that the clerk of the court shall prepare and complete the
transcript of the Preliminary Hearing held in the above-entitled matter on December 10, 2010.

IT IS FURTHER ORDERED that the costs necessary for the preparation and completion of
said transcript shall be paid at county expense and at no expense to the defense.

IT IS FURTHER ORDERED that the transcript shall be complete and submitted to all parties
to this action no later than the 25th day of January, ~~2010~~ 2011

DATED this 30th day of December, 2010.

John T. Mitchell
JOHN T. MITCHELL
DISTRICT JUDGE

CLERK'S CERTIFICATE

I hereby certify that a true and correct copy of the foregoing was personally served by placing a copy of the same as indicated below on the 30 day of December, 2010, addressed to:

Transcript Department - Kootenai County Courthouse 446-1187 ✓

Kootenai County Public Defender 446-170h ✓

ORIGINAL

Anne Taylor, Deputy Public Defender
The Law Office of the Public Defender of Kootenai County
PO Box 9000
Coeur d'Alene, Idaho 83816
Phone: (208) 446-1700; Fax: (208) 446-1701
Bar Number: 5836

116
STATE OF IDAHO
COUNTY OF KOOTENAI
FILED: SS

2011 JAN -4 PM 2:46

CLERK DISTRICT COURT

[Signature]
DEPUTY

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI

JOSHUA MICHAEL MOSES,

Defendant.

) MOTION TO DISMISS
)
)
)
)
)

COMES NOW, the above named defendant, by and through his attorney, Anne Taylor, Deputy Public Defender, and hereby moves the Court for an Order to Dismiss the charges in the above entitled matter.

This motion is made on the grounds that substantial evidence on each element of the crime charge was not adduced at the Preliminary Hearing.

DATED this 4th day of January, 2011.

THE LAW OFFICE OF THE PUBLIC
DEFENDER OF KOOTENAI COUNTY

BY:

[Signature]
ANNE TAYLOR
DEPUTY PUBLIC DEFENDER

CERTIFICATE OF DELIVERY

I hereby certify that a true and correct copy of the foregoing was personally served by placing a copy of the same as indicated below on the 4th day of January, 2011, addressed to:

Kootenai County Prosecutor FAX 446-1833

Via Fax

Interoffice Mail

^

Description	CR 2010-15159 Moses, Joshua 20110106 Bond Hearing CR 2010-15159 Moses, Joshua 20110106 Arraignment in District Court Judge: John T. Mitchell Court Reporter: Julie Foland Clerk: Jeanne Clausen		
Date	1/6/2011	Location	1K-COURTROOM8
Time	Speaker	Note	
03:45:50 PM	Judge	Calls case - deft incustody and represented by Ms. Taylor; Mr. Verharen for the state; Arraignment and bond reduction hearing.	

Jeanne Clausen

03:47:58 PM	Deft	Understands. Understands choices of plea.
03:48:25 PM	Judge	Felony grand theft by extortionation how do you plead?
03:48:39 PM	Deft	Pleads NG.
03:48:43 PM	PA	has extended an offer.
03:48:49 PM	PD	Only offer was extended in August. Expect this to go to trial. H ewas made original offer in case.
03:49:25 PM	PA	There has been no subsequent offer. Ready to proceed 2/9/11
03:49:50 PM	PD	I have a motion to dismiss and need the preliminary hearing transcript. 4 day trial.
03:50:10 PM	PA	2 day trial.
03:50:18 PM	PD	Motion won't take very long. 1/25/11 is when transcript is due
03:51:35 PM	Judge	Set this for a 4 day JT on 3/9/11 and 3/1/11 is PTC at 1:30pm; time is reserved for a motion to dismiss 2/1/11 at 3:30pm, but you will need to set for hearing and call clerk.
03:53:56 PM	PD	Motion for OR release. Mr. Perry's case was dismissed. Everything that was said about Mr. Moses was false. Judge Luster remanded it back for another preliminary hearing. Mr. Branam stated he completely lied to police. In custody for a number of months. Can post a \$5,000 bond. Grew up in Spokane. Would reside there and father would assist him getting him to court.
03:56:07 PM		Strong case and unlike the co-deft's case. Witnesses will be different. Likelihood of conviction is great. Contested PH has been heard before Judge Watson and it was bound over. Judge Caldwell also found probable cause. Habitual offender potential case. Extensive prison sentence. Prior record. Felony conviction as a

	PA	juvenile. Doesn't live in Idaho but Wa. This is same bond argument made before various different Judge's. \$75,000 set by Judge Watson. \$50,000 bond set by Judge Luster. Luster heard bond hearing again and denied. Based on prior criminal history and route this cas has taken it should remain set.
<u>03:59:09 PM</u>	PD	Very closely connected to this area and will sign a waiver of extradition.
<u>04:01:16 PM</u>	Judge	Denies request. Addition to assessment made by Judge Watson and Judge Luster - Judge Wayman assessed it at \$100,000 earlier on. Keep bond set at \$50,000.
04:02:16 PM	PA	Nothing to add

Anne Taylor, Deputy Public Defender
The Law Office of the Public Defender of Kootenai County
PO Box 9000
Coeur d'Alene, Idaho 83816
Phone: (208) 446-1700; Fax: (208) 446-1701
Bar Number: 5836

STATE OF IDAHO
COUNTY OF KOOTENAI } SS
FILED: 1/6/11
AT 5:00 O'CLOCK P-M
CLERK, DISTRICT COURT
Debbie Clausen
DEPUTY

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI

~~JOSHUA MICHAEL ROSEN,~~
Defendant.

The Court having before it the Motion for Bond Reduction and *oral argument held January 6, 2011* ~~good cause appearing, now~~
~~therefore~~

IT IS HEREBY ORDERED that bond in this matter *remain set at \$50,000.00* ~~is reduced to~~

DATED this 6th day of ~~December, 2010.~~ *January, 2011.*

John P. Luster
JOHN P. LUSTER
DISTRICT JUDGE

CLERK'S CERTIFICATE

I hereby certify that a true and correct copy of the foregoing was personally served by placing
a copy of the same as indicated below on the 10 day of ~~December, 2010,~~ *January 2011* addressed to:

- Kootenai County Public Defender FAX 446-1701 ✓
- Kootenai County Jail FAX 446-1407 ✓
- Kootenai County Prosecutor FAX 446-1833 ✓

Debbie Clausen

Description	CR 2010-15159 Moses, Joshua 20110210 Motion to Dismiss Judge: John T. Mitchell Court Reporter: Julie Foland Clerk: Jeanne Clausen		
Date	2/10/2011	Location	1K-COURTROOM8
Time	Speaker	Note	
03:33:58 PM	Judge	Calls case - deft present in custody and represented by Ms. Taylor; Mr. Verharen for state. Motion to Dismiss. Read motion itself. Read ICJI 545 so aware of elements. State v. Pole. Haven't had chance to read preliminary hearing transcript	

Jeanne Clausen

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